

UNIVERSITY OF TORONTO LIBRARIES



3 1761 00579785 7

Auto

Toronto University Library
Presented by

The Right Honorable, H. C. Raikes Esq. M.P.
through the Committee formed in
The Old Country
to aid in replacing the loss caused by
The disastrous Fire of February the 1st 1890

THE DUTIES AND THE RIGHTS OF MAN.



hild's
Ethics
A 936

THE

DUTIES AND THE RIGHTS OF MAN.

A Treatise on Ethics,

IN WHICH ARE DEMONSTRATED

*THE INDIVIDUAL, SOCIAL, AND INTERNATIONAL
DUTIES OF MAN, AND HIS INDIRECT DUTIES
TOWARDS ANIMALS.*

BY

J. B. AUSTIN.

FIVE BOOKS IN ONE VOLUME.

LONDON:

PUBLISHED BY THE AUTHOR.

1886.

Oct 10, 1962
L. H.
Angeles

13308

8

TO



THE PEOPLE OF GREAT BRITAIN AND IRELAND

THIS WORK IS DEDICATED BY

The Author

FOR THE ENHANCEMENT OF THEIR MORALITY, AND THE PROPER

FULFILMENT OF THEIR INDIVIDUAL AND

SOCIAL DUTIES.

PREFACE.

MAN ! know thyself !” Study, reason, understand, learn, and fulfil thy duty, and thou shalt be happy in thy individuality, and shalt become a useful member of society. Man ! keep the universal order established by God in all things, and thou shalt be perfect, and therefore pleasing to the Deity.

It is for the attainment of this end by man, in his individuality and universality, that I have striven to set forth in a compendious form the most important duties of mankind, as dictated by right reason alone.

The careful perusal of this work, which bears not a trace of levity (the characteristic of our age), will, I trust, implant in the minds of its readers right principles, and lead them to discharge their public and private duties in the manner willed by God.

Let it be borne in mind that criticism is the effect either of deep ignorance or of true wisdom.

THE AUTHOR.



CONTENTS.

BOOK I.

THEORETICAL PART.

CHAP.		PAGE
I.	IMPORTANCE OF THIS PHILOSOPHICAL STUDY	3
✓ II.	MORAL PHILOSOPHY AND ITS DEFINITIONS	7
✓ III.	DUTY IN THE ABSTRACT OR IN GENERAL	11
✓ IV.	WHO IS THE SUBJECT OF DUTY	13
V.	DUTY IN REFERENCE TO GOOD AND EVIL	17
✓ VI.	LAW—THE REMOTE RULE OF DUTIES	27
VII.	DUTY WITH REFERENCE TO HUMAN ACTIONS	59
VIII.	DUTY AND ITS RELATIONS TO MAN'S CONSCIENCE . . .	99
IX.	DUTY IN REFERENCE TO MERIT AND DEMERIT	111
X.	DUTY IN REFERENCE TO MAN'S PASSIONS AND HABITS	125

BOOK II.

PRACTICAL PART.

✓ I.	SOCIAL DUTIES	145
II.	MULTIPLICITY OF DUTIES AND RIGHTS, AND THEIR CATALOGUE	153
✓ III.	SOCIETY AND ITS GENERAL NOTIONS	160
✓ IV.	DOMESTIC SOCIETY	168

CHAP.		PAGE
V.	CONJUGAL SOCIETY	170
VI.	PARENTAL SOCIETY AND ITS DUTIES	188
VII.	SOCIAL DUTIES BETWEEN MASTER AND SERVANT	195
VIII.	DUTIES IN CIVIL SOCIETY	198
IX.	NATURE AND ESSENCE OF CIVIL SOCIETY	202
X.	NECESSITY OF CIVIL SOCIETY	208
XI.	ORIGIN OF CIVIL SOCIETY	211
+	XII. DIFFERENT FORMS OF GOVERNMENT	220
XIII.	ORIGIN OF CIVIL POWER	234
XIV.	FUNCTIONS OF THE CIVIL POWER	248
XV.	THE DUTIES OF THE SUPREME POWER	275
XVI.	DUTIES OF CITIZENS	281
XVII.	RELIGIOUS SOCIETY: ITS FUNCTIONS AND DUTIES	294

BOOK III.

INTERNATIONAL DUTIES.

all	I. INTERNATIONAL DUTIES IN GENERAL	305
	II. DUTIES OF INTERNATIONAL JUSTICE	309
	III. DEFENCE OF INTERNATIONAL JUSTICE	319
✓	IV. THE DUTY OF INTERNATIONAL BENEVOLENCE	331

BOOK IV.

INDIVIDUAL DUTIES.

PROLEGOMENA	341
I. THE DUTIES OF MAN TOWARDS HIMSELF	342
II. THE DUTIES OF MAN TOWARDS OTHERS	350

CHAP.		PAGE
III.	IMPERFECT DUTIES, OR DUTIES OF CHARITY	354
IV	DUTIES OF COMMON BENEVOLENCE	357
V.	DUTIES OF SPECIAL BENEVOLENCE	367
VI.	DUTIES OF JUSTICE	373
VII.	ON NATURAL PROPERTIES	380
✓ VIII.	ON ACQUIRED PROPERTIES	390
IX	VARIOUS MODES OF ACQUIRING DOMINION OVER THE GOODS OF FORTUNE	396
X.	CONTRACT, AS A MODE OF TRANSFERRING PROPERTY .	402
XI.	DUTY OF PRESERVING OUR PROPERTY	412
XII.	THE POSITIVE PRECEPTS OF JUSTICE	419
XIII.	NATURAL THEOLOGY	425
XIV.	REVEALED RELIGION: ITS POSSIBILITY AND NECESSITY .	429
XV.	NATURAL RELIGION	434

BOOK V.

INDIRECT DUTIES OF MAN TOWARDS
ANIMALS.

I.	PROLEGOMENA	445
II.	CLASSIFICATION OF ANIMALS	447
III.	FACULTIES OF ANIMALS	449
IV.	ABSURD SYSTEMS OF ANCIENT PHILOSOPHERS	455
V.	INDIRECT DUTIES OF MEN TOWARDS ANIMALS	461
VI.	PREVENTION OF CRUELTY TO ANIMALS	467
	ACTS OF PARLIAMENT	472

BOOK I.

THEORETICAL PART.



ETHICAL PHILOSOPHY.

CHAPTER I.

IMPORTANCE OF THIS PHILOSOPHICAL STUDY.

To you, lovers of science, I dedicate this work, the subject of which is, in itself, of the greatest importance. Man! Know thyself, for self-knowledge is the best of all knowledge. Man! keep the order established by Nature in all things, and thou shalt be righteous. Man! follow the dictates of true reason, and thou shalt be perfect. As a citizen of this mighty empire,—the foremost of civilized nations,—and being imbued with all its customs, tastes, and inclinations, I hail with delight every work which tends, morally and intellectually, to raise the minds of its inhabitants. Whilst viewing with unfeigned pleasure the gigantic strides which this country is daily making in her unrivalled commerce, in mechanics, in physical and positive sciences, in mathematics, in literature, in the fine arts, &c., I have always been struck with astonishment at the entire absence of good treatises on ethics. To me it has always been a mystery, why a nation like England should be so indifferent to the study of Rational Practical Philosophy.

The object of the numerous newspapers seems, in a great measure, to be to keep a record of the most abominable crimes that are perpetrated. Suicides, homicides,

libels, divorces, and bankruptcies, occupy a leading place in their columns. Acts of treason, of deceit, of envy, of gluttony, of intemperance, and of robbery, form the usual mental pabulum with which your general reader has learnt to rest satisfied.

In Society, Discontent, decided Materialism, and even pronounced Atheism, hold a prominent place. No longer does the child trust his father, and the father has ceased to have confidence in his child. Even among the most intimate friends, dishonesty, anger, revenge, disunion, and infidelity, reign supreme. Friendship is but a lie, gratitude a vain word, and sacred ties are follies.

Believe me or believe me not, the above-mentioned evils are a sad reality, found to exist in the midst of the people of England,—the most enlightened people in the world. We lament the cruelties done by savages, and yet we do not seem to realize the fact that, in our own enlightened land, there are many who, in crimes and cruelties, far outdo those poor savages. The heathen and the infidel are objects of our pity, and we regret that they still walk in the darkness and in the shadow of death, and yet we seem to ignore the fact that, amongst ourselves, there are many in a far worse plight than they are.

Where, but in England, do we read of human beings dying of starvation in the midst of plenty? In what other land will you find such an unstable equilibrium of Society, as in this?

Now, what is the efficient cause of this most deplorable state of Society. Is it lack of intellect? Is it absence of instruction, or of religion? Is it want of wealth, or of natural feeling? To none of these defects is it due, but to the want of that knowledge which teaches every man his duty, from the sovereign on the throne to the humblest beggar in the kingdom. To help to attain this end is the reason I undertake the arduous task of writing a treatise on Moral Philosophy.

"Man ! know thy duties and fulfil them, and thou shalt be happy in that order wherein God has placed thee."

Perhaps, you will be tempted to ask how came I by this knowledge. Well, knowledge, as you know, is prompted by the dictates of reason ; and, since Adam was a reasonable being, knowledge is as old as Adam. Now, I, in common with my fellow-men, have been gifted with my modicum of brains, and, in addition, I have studied the works of some of the most learned moral philosophers that ever the world produced. Moreover, it has been my privilege to study them under the able direction of an eminently learned and zealous professor.

All the arguments are based upon reason. The order followed is that prompted by reason, and the entire work is linked together, as one ring of a chain is linked to another.

This treatise contains no fresh discoveries. The knowledge which it contains is truth,—pure, natural, and unchangeable truth.

To form syllogisms of perfect credibility and absolute certainty, we need not be learned in every science. An untutored labourer can form syllogisms in reference to those things of whose truth he is firmly convinced. To be philosophers, we need not be learned either in astronomy, or mathematics. An insignificant old woman may philosophize about things which she knows to be true.

The conclusions arrived at in this book are based upon no other authority than that of reason. I quote no authorities, because those whom I might quote are, in some respects, of a different opinion from my own. If you, my reader, agree with my reasoning, I shall be glad. If you do not agree with it, and detect its falsity, I shall esteem it a favour, if you will point out the error, for errando discitur—*i.e.*, by making a mistake and afterwards rectifying it, we learn.

Let us understand each other more specifically. In

writing this book, I am not incited by any religious motives ; therefore, the subject before us is free from the bias of religious differences. I write for the Theist as well as for the Deist ; for the Freethinker as well as for the Materialist ; for the Catholic as well as for the Anglican, the Wesleyan, the Unitarian, and, in fine, for any community or denomination whatever. It may be read with profit by both Jew and heathen.

Of course, religion will be embraced in the treatise, from its very nature, but it will be only natural religion, or that which flows from the dictates of reason alone.

The Divine revelations and traditions will never be mentioned ; for, directly, this work has nothing to do with them. Learned fathers, doctors, and historians do not concern us ; reason, and reason only, shall be our guide, our anchor, our light, our way, and our shelter. According to the dictates of reason, we shall proceed from theory to practice, and from one statement to another, until the end is reached.

In the theoretical part, are laid down the most certain principles of human acts, of man's duty in reference to his actions and to their imputability, and also, in reference to his morality and human passions.

In the practical part, we shall speak of social, international, and individual duties, with an additional reference to animals,—a point which has been overlooked by the ancient philosophers. Unlike other philosophers, I begin, not with the duties of the individual, but with social duties, because society itself precedes the individual.

As to the style, it is of a scholastic or didactic nature, brief and concise. There are no flights of literature, because such would impede clearness ; no use of rhetoric, because this might disturb the calm required in the judgments of reason ; no high-sounding phrases, because truth might be dazzled by their brilliancy :—my primary object is to enlighten the mind, not to amuse it.

This book is written for the learned as well as for the

unlearned, for men and women,—since each one ought to know his absolute and relative duties. But above all, I dedicate it to you, rectors and professors of colleges ; to you, members of both Houses of Parliament ; to you, ministers of any denomination ; to you, judges, lawyers, magistrates, and jurymen ; in fine, to all you that share in the government of any kind of society, whether domestic, religious, or civil ; in order that, by promulgating and inculcating this knowledge, society in general may be raised to a higher moral rank.

CHAPTER II.

MORAL PHILOSOPHY AND ITS DEFINITIONS.

Philosophy, taken in its general sense, is that science which investigates the reason of all things, whether divine or human. It may be divided into many branches —viz., Moral, Natural, Positive, and Rational Practical Philosophy.

Our object, however, is to lay down most certain principles in reference to rational practical philosophy or deontology, which may be defined as the **Natural Science of human actions**. Man, therefore, is both the object and the subject of this science, because it shows forth the reason of his free actions, just as rational speculative philosophy reveals to him the reason of his own existence, and of that of all other beings. Rational practical philosophy is a natural science ; hence, it has nothing to do with the **Divine revelation**, although its object is to teach us the supreme cause of our actions.

This science may be either **egotistic** or **religious**. The former is a system of cognitions and operations, all tending to one object—namely, to satisfy man in his natural cravings, when he considers himself superior to

all ; hence, this object is happiness and personal interest. On the contrary, religious philosophy is that science which rules one's life and actions, in reference to One Supreme Being, from Whom and in Whom man is. That form which prompts man to act, or which moves his will to work, in reference to his superior, whom he recognizes as such,—is styled duty. Not physically but morally does this force compel him to act ; and he cannot quit this moral force, without rebelling against his own power of reasoning,—without opposing right, and without offending his superior, since to him he is bound.

With this principle established, it follows that, as our own intellect finds in the word *duty*, the reason of our actions ; so, we may give another definition of rational practical philosophy—viz., the natural science of the duties of man. And again, duty, right, and law, as referred to man, being so closely blended together that the knowledge of the one necessitates the knowledge of the other, it follows that the science which treats of the duties of man may also be styled—the science of rights, or of the natural law.

The duties of man being once approved of, and the reason why they exist being not only established, but perfectly understood ; then, the logical deduction is, that men's duties are, as it were, the rules on which all our human actions, if they are to be just, must be based. On this account, we may still define deontology as—the science of the rules of human actions, or of the rules of a just life.

Man, by conforming himself to these rules, may easily attain his final end ; and, therefore, on this head, rational practical philosophy may still be defined as—the science which directs man to act for his last end. But, the last end of all human actions and the formal object of his will, is good. To attain this good, man desires all that he does desire, and hates all that he hates, viz., the antagonist of good, which is evil. Therefore, as it is the

primary object of rational practical philosophy to teach what man ought to do, and what he ought to avoid, in order to obtain his last end, it may also be defined as—the science of good and evil, proved by dint of human reason.

Lastly, on the ground that the knowledge of good and evil,—of right and duty,—and of all that man ought to do and to avoid, shows to those who have acquired it, certain manners of acting, constant and uniform, which are called, in Latin, *mores*, and, in Greek, *ethos*, hence, I say, that rational philosophy, of which I am about to speak, is called *ethica* or morality. Nevertheless, all the above definitions may be reduced to the following one, as the most clear and simple—viz., The natural science of men's duties.

The great basis on which ethical philosophy rests, is the firm certainty of the existence of one Supreme Being, the Creator and Master of all things visible and invisible. And, indeed, if we deny God's existence ;—if we destroy His free will ;—if we doubt the immortality of our souls ; and if we abandon the hope of a future life ; then, human reason can neither discover the same ways to attain the scope of its actions, nor adopt the same means to gain its end, nor weigh with the same rules that which it ought to do or to omit. The words law, duty, and morality must either have no meaning in themselves, or must signify the contrary to what we understand by them. Neither Atheist, nor Fatalist, nor Materialist, therefore, can admit true morality, except by one of those accidental coincidences, to which good sense and the authority of others oftentimes guide the man who has admitted false principles.

A definition of rational practical philosophy having been given, it is necessary to lay down some principles in connection with the different kinds of agents. There were philosophers in the past, who confused substance with force. According to them, every substance is a

force, as every force is a substance, because substance and force are objectively the same thing. We are not going to discuss this theory. We may, nevertheless, safely state that in every substance there is a force ; and, as the operations of the things existing in Nature are numerous, we must admit that the forces belonging to them are various ; and, therefore, that the created substances, and the operations which result from this union, are specifically diverse. Yet, this great variety of agents can be reduced to two supreme species,—viz., Necessary and Free agents.

The Free Agent is that which, being placed in all the conditions required for acting, has the power either to act or not to act ; and which, remaining the master of its own actions, resolves either to do, or not to do, or to suspend its actions.

The Necessary Agent, on the contrary, is that which, being placed in the same conditions as the free agent, has not the power either to act or not to act ; and which, not being the master of its own actions, is, by another cause, irresistibly drawn to perform the act.

Necessity of a Motive for a Free Action.—Although, speaking of man, a free agent is master of his own actions, yet he needs a motive to prompt him to act. He must have an end or good to be acquired. This end or good to be attained influences his active faculties, and serves him as a motor for the performance of those actions which lead to the attainment of the object. So necessary is this motive, that, if it were absent, the free agent could not determine himself to act, because he would have no cause of action ; and, indeed, a free action is an election :—but, how could a man elect, without an end as the motive cause of his action, among so many possible actions. To elect, without having an end, would be just the same as if a person were to move, without fixing the direction in which to proceed.

Physical Force, Moral Force, and the Final Cause.

—Besides the motive which influences the active faculty of a free agent, there are two other causes or forces tending to produce the same effect. One is physical, which proceeds either from the external agent, or from one's own nature ; the other is moral, which proceeds from the motive. The latter works through the knowledge which one has of the good in view, and for which he acts ; and the former works, even without knowledge. The latter invites, whereas, the former compels us to act. The final cause is the end or motive, on whose account the work or action is performed ; this cause may be either the subsistence, or the profit, or the pleasure of the agent. The schools style it the *causa finalis*, in order to distinguish it from the *causa efficiens*—*i.e.*, the power acting to produce the action ; or, the mechanical prime mover, whether it be human or not.

From all this we gather the following axiom :—As various as are the ends, either subordinate to or dependent upon one another, which, all in their turn, prompt the free agent to act, so many and diverse are the motives, the final causes, and the reasons of his actions. He may direct his attention to everything desirable and good, as the end, the motive, and the reason of his actions.

We have divided our work into two parts—viz., the theoretical and the practical. In this first part, we treat of everything that concerns duty, in its abstract consideration ; and, in the second part, we shall speak of duty, in the concrete.

CHAPTER III.

DUTY IN THE ABSTRACT OR IN GENERAL.

I. What is meant by Duty.—In its strictest sense, duty is the obligation which binds the subject to con-

form his own actions to the will of his superior, or rather to comply with it. This is to do or not to do what his master wishes to be done or not to be done. By the word **obligation**, we do not mean a physical force to move the subject's will, but rather a reason or moral guide causing the will to yield to a moral force without resistance, without abandoning the true and convenient way of acting, and without feeling any guilt before the superior.

2. **Command ; Authority.**—The cause of duty is the will of the superior, who wishes a thing either to be done or not to be done. Consequently, this will of the superior, when rendered manifest to the subject, becomes a **command**.

Authority is the result of the superiority of one over another, whereby the nature of command is imparted to the will of the former. And, indeed, without this superiority there could be no command, but pretension. He who commands is the author of what he commands ; and to be the author of a thing is to be the master of it. To be the master of a thing is to possess a right to dispose of that thing at one's pleasure. This right or this will, that a thing should be either done or not done, produces **authority** ; unless he who commands is a self-constituted authority.

3. **What is Right ?**—In reference to men, right and duty are always linked together. By right, is signified not only that moral faculty which exacts from others that they should do or not do a thing ; but also, the simple moral faculty to do it, or not to do it. We call it moral faculty, to distinguish it from physical faculty or physical force, because physical force cannot be the origin of right, although it is to be found in right. Right, inasmuch as it is a simple moral faculty either to act or not to act, is what is called **moral liberty**. On this head we may possess right, if there be no superior to command the opposite of what we wish to do. On the

other hand, considering right as the moral faculty to exact a thing, a man can only possess right, if he is superior. From all this it follows that, when there is neither superior nor subject, duty, in its strictest sense, cannot exist. Men can determine themselves to act from various motives; either on account of some natural tendency or aversion, or for the sake of some greater convenience or utility, or in consequence of their adopted system of life in society. But all these forces, be they either physical or moral, can never produce duty in its strict sense; for, duty implies an act which is commanded by the superior, and which, on the part of the subject, is an act of obedience; and, strictly speaking, to say, "I have done my duty," is the same as to say "I have obeyed." Nevertheless, some acts which are performed without any reference to a superior, we may, in a wide sense, call duties; such are the duties of philanthropy, of civility, of urbanity, of etiquette, &c.

CHAPTER IV.

WHO IS THE SUBJECT OF DUTY ?

4. Rational beings only, who are dependent on others, are the subjects of duty. We say, rational beings only, because they alone, being intelligent and free, can be ruled by moral force; and we say, who are dependent, because to be dependent implies a superior, whose will they must obey. Likewise, the subjects of rights are rational beings or persons only, because, similarly, they are intelligent and free, and capable, above other beings, of titles, and motives, and reasons.

From these two principles we draw some important conclusions of vital consequence.

5. *First.* He, who depends on Nobody, has no

Duty, but has Absolute Rights.—A rational being, intelligent and free, who is, in his nature, independent of every other being, has no duty, but only absolute rights, in reference to everybody, to do whatever he likes. Moreover, if, besides being dependent on others, he finds himself to be the absolute master of others, then he has, in reference to them, an absolute, incomunicable, and proper right, to exact from them all that he wishes to be done.

6. *Second.* He who depends on Somebody has **Absolute Duties and only Granted Rights.**—Those beings, on the contrary, who, in their nature, are dependent on others, and who are not rulers of things, except through participation from their masters, have absolute duties and only rights participated. Hence, by dint of reason, we establish the following principle :—

7. **Man in his nature is the subject of duties,** because, being a creature of God, he depends thoroughly on God, Who is his absolute Master, and Who can command him. This truth, being clear in itself, requires no proof. Nevertheless, to impress it deeply on the mind, we will prove it.

Man is a creature of a Supreme Being, Who acts independently of all other beings. From HIm he receives everything ; by Him he is preserved. Therefore, that Supreme Being can dispose of man at His pleasure, and can exact of him all that He wishes ; and this demonstrates that man is bound to obey Him. That man is a creature of God can be proved by the mutations or changes to which he, in his own substance, is daily subject. Now, that which is subject to changes cannot be eternal ; and what is not eternal, cannot exist of itself, because, unless it has existed from all eternity, it must have come either from nothing or from something. It could not have come from nothing, because nothing can produce only nothing. It could not have come from another created being, because such a being cannot be

the first cause. As man is not eternal, but exists in virtue of a Being Who is eternal, he acts through this Being, and reproduces under different and new forms what He is, but he would never be able to produce what does not exist. Between to be and not to be, or between being and not being, there is an infinite distance, which can be overcome only by an infinite power, of which no created being is capable. Hence, man, being mutable, has his origin from the Eternal Being Whom we call God. It follows that to Him man is subject ; and that, if subject, he must obey God, and fulfil his duties towards Him. Therefore, man is the subject of duties.

8. *Third. Man is always the Subject of Duties.*—Man, who in his nature is the capable subject of duty, is a subject not only for a day or two, but always. There is not a moment which can free him from subjection. He depends on God, Who is independent of everybody, and Who is the absolute and sole Master of His work. As God, of His own will, causes man to exist, so, with the same will, He can destroy him. If God, of His own will, keeps man alive, He can, at His pleasure and without wronging anybody, make use of man, and exact of him whatever He likes. Man, being under the power of God, must therefore serve Him, and live, and work for Him. The duty of dependence and obedience is so essentially united to his nature, that not even God Himself can free him from it, because He cannot abandon that mastery which He holds over man, or that right which He has to command him. Hence, as mastery and right exist always in God,—so, subjection and the duty to perform God's Will must exist always in man;—or, in other words, man is always the subject of duty, and, therefore, to admit in man autonomy is absurd.

9. *Fourth. Man possesses only Communicated or Imparted Rights.*—This principle is in itself very logical. For, as man depends on God, and as all that he possesses

is God's, so he cannot have independent and absolute rights, because in himself he has nothing which relies on him as on a first cause ; and, if not on a first cause in himself, all his rights must rely on the first cause which is God, Who is his absolute Master, and the Master of all things that exist.

10. *Fifth.* God alone possesses Absolute Rights.—This statement is only a conclusion drawn from what has been previously said ; because God alone is independent of everybody, and He alone has creatures who are His work, and over whom He has perfect control. Being independent of everybody, He enjoys the right, and the full right, of doing whatever He pleases. Being the Creator of all, He enjoys absolute and supreme right over all, and can demand anything that He wishes.

Moreover, God's moral and physical power is infinite, and He can do all that He desires ; yet, there are things impossible to God—*e.g.*, to be the Author of absurdities, of imperfections, and of contradictions. Now, the inability to perform these things is the absence of a power arising from imperfection, but not of moral force ; hence, to deny the latter, on the ground of the absence of the former, is perfect blasphemy against God.

11. *Sixth.* God has no duty in its Strict Sense.—God, Who has absolute or unlimited rights, cannot have duties, because He has no superior. When we say of Him, that He must do such and such a thing, we mean to say that He is compelled to do it, on the ground of His own nature, which, not being the nature of a finite being, cannot be either unfaithful, or unjust, or cruel, and cannot do what is wrong or inconsistent.

12. *Seventh.* Right, in itself, precedes Duty.—From what we have said before, it is manifest that right must necessarily precede duty, because it is right which imparts the force of obligation to the command, and it is the command which produces the duty. This being established, it follows that, in man, duty comes before right,

because man's rights spring from the order of things and of persons established by God in Nature, and because duty comes from command, and God commands us to respect Him ; therefore, in man, duty is before right.

13. *Eighth.* The Rights of one Individual are, in Substance, but the Duties of Others.—What is the right or power which one man has to command another, if not the duty which the authority of God, ever inseparable from Him, has imposed on one, to follow and obey the will of another ? What is my right to possess a thing, if not the duty, which God has imposed on others, not to deprive me of it ? Take away this duty, and then, what we call our right will become simply a negative entity ; this right will not be then a moral but a physical faculty ; and, were I to say, “ I wish that to be done,” another might, with the same privilege, answer, “ I wish that not to be done.” In this case, there could be no right, but the absence of right ; man having no fulcrum, on which to direct against others the free use of his physical force. Hence, we once more conclude that rational moral philosophy is the real science of duties ; and it is the science of rights, *secundum quid*, because, firstly, God's will produces, in man, duties before rights ; and, secondly, because, as we shall see in the course of this treatise, man will be able to attain his last end by the fulfilment of his duties only, and not of his rights.

CHAPTER V.

DUTY IN REFERENCE TO GOOD AND EVIL.

14. The objects or matters of a faculty are those things by which the activity of that faculty may be understood, and its acts exercised. Therefore, the object of the human will is,—all that man can wish for ; thus, every one must confess that man cannot but wish for what

is good, or for what he thinks to be good ; hence, good, and good only, is the object of the human will.

15. **Good and its Divisions.**—*First.* Many different meanings are given to this word “good.” The Metaphysicians place good with the being of things. By it, they mean that which is in actuality in the thing—viz., its reality and its perfections; in one word, that which constitutes its entity or physical essence, and which causes it to be more or less perfect in its existence; and they call it metaphysical good. Its opposite is metaphysical evil—viz., that which, in the thing, still remains in potentia; which might exist, yet does not exist, but is wanting. Hence, this species of good and evil is to be found in every created thing, which is necessarily finite; and, therefore, concerning these things, the teaching of the schools is, that they contain actuality and potentia. On the contrary, God, Who is pure actuality, and all actuality, and an infinite Being, cannot be subject to metaphysical evil.

Second. Besides the metaphysical good, there is also the moral good. This, by moralists, is styled that good which is performed by human beings, in conformity with the supreme law, in accordance with which they must act: while moral evil is that which is opposed to this law.

Third. According to us, good, in its simple sense, is that which is in conformity with the will, or rather that which can be wished for by man’s will. Things, which either exist in their reality, or are taken in reference to their reality, are called real entities. But, if taken in reference to the intellect, and as agreeing with it, they are called true things, or truths: and, if taken in reference to the will, good things, or good. Good or goodness, therefore, consists in that harmony which exists between a thing and a man’s will; just as truth consists in that harmony, or convenience, or equation, which exists between a thing and a man’s intellect.

Hence, we gather the following axioms :—1. That the

object of the will is,—good. 2. That, in general, what constitutes a thing pleasing to the will, is its correspondence with the end for which one acts. And, indeed, it is an undeniable principle in metaphysics that everything which determines itself to act, acts always for an end. The end is, as it were, a motor to urge a free agent to act. Without an end, man could not resolve to act, not having a reason or guidance for that intellectual or moral force, which he himself directs, governs, and determines, rather to one, than to another end: so much so, that man can wish for what is not the end of his will, only so far as it is, or as he believes it to be, a means to obtain his end. This it is which places things in harmony with the will; for, the will, desiring the end, cannot but like the means by which the end is obtained. The means are so closely connected with the end, as to form with the will almost one and the same object of volition; because it is impossible to desire a thing as an absolute and final end, and not, at the same time, to desire the means by which it can be attained. The goodness of things, therefore, consists in their suitability to supply the wants of man's nature.

16. **The End of Man's Actions is his own Happiness.**—All human beings feel within themselves an unrestrained desire for happiness, and, to procure it, they do all that they do. To it man is necessarily drawn by his own nature, and he knows it to be the constant motive of all his actions. On account of this happiness, he loves all that he loves, and hates all that he hates. The scope of one's happiness may indeed be denied by sceptics with vain words, but not in accordance with facts; for, they themselves must confess that the happiness to which they tend is the sole aim of all their operations. And, indeed, man is so created in his natural tendencies, that he cannot but continually wish for the attainment of his own happiness.

17. **Good is that which is Useful to Man.**—If things

can be the object of man's will, inasmuch as they either are in themselves, or are believed to be means to procure the end of the agent, and if happiness is necessarily the end of man, it follows that good, in reference to man, is that which can either render him happy, or which is calculated to promote his happiness, or which is useful to him. A being, however great and perfect in itself, which is unable either to satisfy man in his natural tendencies, or to better his condition, cannot excite in him either love or hatred ; nor can it be the object of his will, because it has not in itself the only motive for which man wishes—viz., the capacity for making him happy. Therefore, before such a thing, the human will would remain thoroughly indifferent ; and such a being (this hypothesis admitted) could neither be, nor could be said to be, good for man. Hence, we see that good is subject to still further divisions.

18. **Perfect and Sufficient Good.**—A being, which can fully satisfy the natural inclinations or the wants of man in all their forms, and can perfectly satiate his soul in all its cravings, is, for him, what we call perfect, full, and sufficient good, because it bestows on him perfect happiness. This end acquired, man no further seeks, and no longer selects, but necessarily unites himself to it, and reposes in it, as in his centre.

19. **Imperfect or Insufficient Good.**—On the contrary, that being which, in conformity with man's natural inclinations, partially satisfies his wants and betters his condition, but cannot satisfy his moral appetite or appetizing faculty, is unable to render him thoroughly happy ; and, although it is good, it is only an imperfect or insufficient good. This good is more or less imperfect, in proportion to the greater or less happiness which it confers on man.

20. **Good and Evil Blended Together.**—Lastly, a being, which can content man's cravings, only by offending another being, which cannot give pleasure without

pain, and which cannot give happiness without some unhappiness, is a good mingled with evil ; or rather, it is, in some respects, a good thing, and in others, an evil thing.

21. **Physical Good and Physical Evil.**—Besides a metaphysical or moral good, there is also a physical good, which consists in all that is useful to man and suited to man's natural wants and appetites. This good is properly called **physical**, because of its connection with the physical nature of man. On the contrary, that which is not in conformity with the physical nature of man, but rather in opposition to it, is styled **physical evil**.

Among these physical goods, there are some which directly confer upon man either a pleasure, or an advantage, or the satisfaction of some moral appetite. These, in themselves, are called **good things**. Again, there are others which, although they do not afford pleasure, are, nevertheless, means adapted to obtain greater happiness for man, notwithstanding the tedium and pain which may attend them : these are called **useful things**. Finally, there are others which seem, in themselves, to be useful and good, and which apparently give happiness to man, but leave behind them unhappiness and misery : these we name **evil things or evil goods**.

22. **Liberty of Man's Will.**—The union of good with evil, and the opposition between what is pleasing and what is useful, which man sees in every intended act, cause him to be the master of his own action, remaining free either to do it or not, and to choose between opposite and diverse things. The reason of this is, that, in one or other of the two contradicting or opposite, and diverse things, he finds that motive, for which alone he wishes, and for which he might always wish. Neither does equality between good and evil, nor the overwhelming power of one above the other, destroy this liberty in man, because they are not as two contrary forces, which might be destroyed the one by the other, but rather as two different ways, both leading to the same end,

which is happiness. A medicine to a sick person presents two aspects,—the one, good, because tending to restore his health ; the other, bad, because its taste is disagreeable. It is therefore in his power either to take it, or not. If he takes it, he likes it, because he considers it to be good ; if he does not take it, to him this is also good, because he rejects a thing which disgusts him. The existence of this free will is a fact so clearly attested by common sense, that no man, without lying unto himself, could deny it.

23. **Man's Wisdom in the Use of his Free Will.**—If man, after weighing the good and evil resulting from the doing or the not doing of an action (notwithstanding his perfect liberty to act as he pleases), were to abandon a greater for a less good, he would be most foolish. His wisdom and prudence consist therefore in this,—that he should select what, to him, is the most useful, and what, in itself, is the best and most convenient for the acquisition of his final end. To grasp, at once and without any consideration, the first good that is placed before him,—to give ear to the voice of the senses,—to go whither only human instinct guides him,—is to act, not as a man, but as a beast; because the latter has, for its guidance, only instinct and sensual yearnings ; whereas the former is gifted with reflection, whereby he can compare all the present good with its sequel—*i.e.*, the act with all its consequences, the sweet and the bitter of one thing and another, the good and evil of the action, with the good and evil of its omission. If he wishes to go on, as a man, to his last end, he must make use of reflection. In this the wisdom of man really consists.

A man, who wisely governs himself by comparing good with evil, a pleasing thing with a painful thing, and a painful thing with one that is useful, must come to this conclusion—that, oftentimes, what has the appearance of good, is not good, and that, what at first seems an evil, is often not an evil, but a real and great good.

In this life, everything which surrounds man contains in itself its good and its evil. It is man's duty, therefore, to examine and to know how much good and evil exists in a thing. The rules, by which he may decide whether a thing is good, notwithstanding the evil which it causes, or, *vice versa*, whether it is evil, notwithstanding the good which it produces, are the following :—

First. A good, which either deprives us of a greater good, or impedes its acquisition, is an **evil**.

Second. An evil, which either frees or preserves us from a greater evil, is a **good**.

Third. A good, which impels us to an evil, is an **evil**.

Fourth. An evil, which produces good, is a **good**.

The man, who conscientiously acts according to the above rules, is a wise man and works as such.

24. What is the end of Man's Creation ?—Though man has in himself, as the final end of his actions, his own happiness, yet God did not create him simply for this end. The end, for which God created man and everything, is His own extrinsic glory—*i.e.*, the manifestation of Himself and of His own infinite perfections.

I say for His own extrinsic glory, to signify that He did not create man for His intrinsic glory, to be or to appear either more than He is, or better than He is; for, being eternal and infinite, He is perfectly blessed in His own knowledge and love.

Nevertheless, He could create man only for Himself, because, existing before the creation of things, He could not but create them for Himself, and find, also in Himself, the motive to produce them out of nothing. The beings, which were not then in existence, could not become for Him a reason to be created. Not being able, therefore, to create them either for His intrinsic glory, or with the view of bettering Himself, He could create them only in order that they might know Him, and that He might manifest Himself to them ; which is equal to creating them for His extrinsic glory.

This is a truth of vital importance, as demonstrated by metaphysics, and it must be kept in mind during the course of this treatise, as from it we shall draw the supreme reason of man's actions, and the fulcrum of His morality.

25. **The same Human Action may be good in a Twofold Sense.**—If happiness is the end to which man directs his steps, and is that which he directly wills, and for which he wills everything that he does will ;—and if the extrinsic glory of God is the end of man's creation, for which end God wishes man to be and to do ;—it follows that the things to be done by man have a twofold end : the one, final, which is ordained by God, and the other, secondary, which is proposed by man. Consequently, these human actions are performed for a double reason, and they have a double rule, whereby they may be weighed,—and, therefore, a double distinctness.

The first good is placed in that very reason for which man works, in reference to his end. The second is placed in that reason for which God desires man to work, in reference to His own outward glory.

In the first case, the thing or the action is good, in reference to man ; in the second, it is good, in reference to God. In virtue of the first good, man feels happy, and, in virtue of the second, he feels good and just.

26. **In reference to God, Everything is Good.**—The second goodness of which we spoke, exists in man and in all his deeds. This we can demonstrate, as follows. The world is and must necessarily be good, in relation to its end. It would be absurd and injurious to God to say either that there is, or that there may happen in the world, something whose existence might render it less adapted to the end for which God has made it. This would involve a negation of the wisdom and of the power of God being sufficient to ordain a thing for the end for which He made it. If, therefore, everything corresponds with the end established in the universe by God, and is

adapted to it,—it follows that every man, being a part of the universe, must correspond with that end, whatever his state or condition may be, or whatever may be his work. No matter what man does,—no matter what his life is,—he must serve unto the manifestation of the Divine perfections ; because, for this end, God has absolutely created and selected him ; and, in His selections, He cannot err, because there is no limit to His views. No one can resist His absolute Will ; nor can any cause or incident frustrate His eternal decrees.

If all that man does must be in reference to the end of creation, then, everything, in reference to it, becomes good,—even that which, in itself considered, God would not wish ; because God created everything for His extrinsic glory, and even the actions of an impious man are overruled for good.

27. Rectitude — Moral Good—Rational Good—Honesty.*—From all we have said, we cannot infer that God should grant man the full right and moral liberty to do as he likes. If it is not necessary for the end of creation, according to the order stated, that God should prescribe for man a consistent mode of action, it is essential that He should command him in some things, and forbid him in others. This we shall hereafter demonstrate.

God's ordinance binds man so strictly as to place in him the supreme reason of his actions. Man, as we have already seen, not having of and from himself existence, can neither be master of himself, nor can he act of himself. Man, being a creature entirely belonging to God and created by Him, has no right even over his own actions ; but, God has that right. Consequently, if man wishes to act according to justice ; if he chooses to listen to the voice of reason rather than of instinct ; and if he

* We use the word **honesty**, in the sense of **rational moral good** or *bonum honestum*. In English, it has usually a less wide sense, though Shakspeare, for the most part, uses it in our own sense.

resolves to live righteously ; it behoves him to act according to the appointment or command of God, in preference to his own pleasure or utility. If, notwithstanding the commands of God, man still has the power or physical liberty to do what he pleases,—he has, nevertheless, the duty or moral necessity to do what God exacts of him ; and it is in his conformity with the ordinance or command of God, that the rectitude or righteousness of his actions is to be placed ; and he, who acts thus, is held to be just before God. Hence, we at once understand that **Moral Good** is nothing else than the action of man, in conformity with the Divine ordinance or command. Moral good differs from physical good, inasmuch as the latter consists in the convenience, for our welfare or happiness, of the action performed.

Rectitude, justice, or moral good is not, in itself, a good to which our soul should simply tend,—to which our nature should be instinctively directed,—and to which our reason should be directly drawn. But it is a good which reason demonstrates, establishes, and appreciates ; hence, we name it a **rational good**.

Lastly, because, in the election of this rational good, man, by following that faculty which distinguishes him from the brute, acts as a man ought to act, keeps himself in that sphere in which God has placed him, and does honour to himself ; on this account, we say that rational moral good may be styled **honesty**, as distinguishing it from the sensible and the useful good.

From the above definitions, we draw the following corollaries, which are of great importance :—

First Corollary : Honesty is eminently useful.—In itself,—even in its material sense,—it is a good. This is beyond any doubt. It is, at the same time, eminently useful ; because God, having decreed that man should act in conformity with His commands, could not do less than will that man, in doing what is honest, should, at the same time, do what is useful to himself ; not as a

duty involved on God, or as a strict obligation towards man, but as an act of the Wisdom and Providence of God, Who, having created man to attain happiness, wills him to obtain it by the path of honesty or morality.

Second Corollary: Usefulness cannot constitute Honesty.—Although honesty is always useful, and although nothing can be useful without it, nevertheless, it would be wrong to infer, that either the moral goodness of our actions, or their honesty, should proceed from their utility: for, this statement is false—things are honest, so far as they are useful. Honesty is always useful; but we cannot say that what is useful is always honest. If I rob my friend of five pounds, the five pounds may, indeed, be useful to me, but my action cannot be honest.

Third Corollary: That Morality, whose Object is Interest, is False Morality.—This morality assigns the happiness of man to be the final rule of all his actions, which, as we have already seen, cannot be so; therefore, this morality is to be rejected. In conclusion, man will always derive great utility from doing a good thing in conformity with the commands of God—*i.e.*, he will not be able to reap the benefit of it, unless he fulfil his duty. Or, in other words, man will always do good, if he perform his actions in order to please God. If man do good for his own sake,—then, that good, if not done in reference to God, may become evil. Man truly does his duty, only by obeying God.

CHAPTER VI.

LAW—THE REMOTE RULE OF DUTIES.

28. *Origin of Duties.*—Man has already been defined by the philosophers of bygone ages, as—a rational animal. He is called an animal, because of his life and

material feeling, common to all existing animals. He is called rational, because he is gifted with an intellectual faculty which is not common to animals, and whereby he can give the reason of his actions, and of his existence. This faculty we call reason. This is the rule of his actions, and, at the same time, the judge of his actions. As man, therefore, is required to follow this rule, it becomes the moral law of his actions.

On this account, when man performs an action, he must at once compare it with his reason or moral law, in order to see whether his actions are in conformity with it, or not; and whether he must perform the action, or not. This practical judgment which decides, establishes, and commands, what, *hic et nunc*, is to be done, is named, conscience. That duty which comes from God, and which cannot come but from God, emanates, as it were, from this practical judgment, which proximately rules our actions. Therefore, conscience may also be called the proximate rule of human actions; whereas, law, which is the origin of our duties, and by which, as they are produced, so are they perfectly weighed, is called the remote rule of the same human actions.

It is necessary that all these things be well understood by the student of rational philosophy. Therefore, to waste no time, we will, at once and in a most concise way, give you the true notion of law,—of its subject and object,—of its matter and diverse species. We shall prove the existence of the natural law, all its properties, and, above all, its sanction.

I. True Notion of Law.—Its Divisions.

29. As we have before seen, God, being the Creator of man, and, consequently, his absolute Master, possesses the absolute right to dispose of him, the full jurisdiction to command him, and the absolute authority to oblige him to work, as He wills. Running parallel to this right of God, there is the natural duty in man to obey

Him in everything, and to be subject to all the decrees of His will.

Nevertheless, as this right or authority which God has over man, is not in itself a command, but the foundation and soul of all His commands,—so, the duty, which man has to obey God, does not bind him in such a way as to destroy in him freedom of action. This duty does not, *per se*, compel him either to do or to omit a special thing; but it is the reason, or rather the condition, whereby he is ruled by God and obliged by Him to do whatever he is commanded. Man, in virtue of his subjection to, and dependence on, God, is only obliged to recognize Him as his Supreme Master, and to be ready to observe and execute His orders.

30. **Duty arises from Command.**—The obligation, therefore, to do or not to do an action, comes always to man from the real will of God, Who wishes the action to be done or not. Authority is that power, whereby God exacts and, by exacting, obliges; but the efficient cause of duty is the act of His exacting will. Hence, in order that man may recognize it his duty to do or not to do a thing, it is essential to know the efficient cause of his obligations. This is contained in the words—**God wills it.** And, when this efficient cause neither exists, nor can be adopted, then there is no duty for man. Now, this will of God, ordaining His creatures to work in such and such a way, morally obliges and binds them to do so; but this is what we before called—**command;** therefore, **command is what produces duty.**

31. **Law is a General and Permanent Command.**—If command produces duty, we may affirm the same of law, because law is a command. If a man, invested with authority, demands something to be done by either one or more individuals, his command is a **precept**; but, if he exacts the doing of it from every one of his subjects, this command becomes law; it will last until it be revoked; and, if never revoked, the command will be

permanent. As these commands constitute a firm and universal reason for the justice and rectitude of the actions of subjects, so, law, considered in the abstract, may be defined—a fixed rule, to which every man ought to conform his actions.

32. What is Law in the Concrete?—That which, in substance or substantially, constitutes the rule of action,—or, law in its concrete sense,—is nothing but the will of the superior, who actually and virtually perseveres in the same command. Law is a continual command, and a command is always an act of the superior's will.

The superior, in order to impose his will on his subjects, requires the means whereby he may make it manifest unto them; because the latent will of the superior, not being rendered manifest to the subject, is not law, but a project or thought of law. Therefore, what constitutes a law, is the will of the superior as manifested to the subject. Hence law, in its substance, is always the will of the superior. Were the superior to desist from exacting, the law would cease to be law, and the subject would be free from the obligation of doing what was before commanded.

33. Difference between Physical and Moral Law.—Even those laws which are called physical are, in substance, nothing else but the acts and decrees of the will of the Creator. Still, there is a difference between physical and moral laws. By the former, God so commands His creatures that they are naturally directed to a special object, to which the necessary agents cannot but tend. By the latter, on the contrary, God only morally obliges;—that is to say, He commands His creatures to perform an act, but He does not direct or lead them to it. He thus allows them perfect control over themselves, either to act or not to act, so disposing His creatures and the thing to be done, as to leave in them the physical power either to do it or not to do it. This law it is, whose foundation we are about to lay.

34. Who is the Author, and Who, the Subject of Law?—The author of a law is that being who has the right to exact, and whose exaction imposes the obligation, the moral necessity, and the duty, either to do or not to do a thing; in one word, he is that being who can establish a law.

On the other hand, that being to whom the command is given, and upon whom the obligation is imposed, is called the subject of a law, or rather, the subject of the duty imposed by a law.

35. What is the Matter of a Law?—That thing or action, which the superior orders the subject to perform, is called the matter of a law.

36. Who can be the Author of a Law?—It is self-evident that the author of a moral law must be a person who holds supremacy over others. We say a person, because only persons, as we have said before, are capable of rights. He must hold supremacy over others, because only he, who is superior, has effectively the authority to command.

37. Who can be the Subject of Law?—The subject of the moral law can only be a creature who is intelligent and free. A creature, because only that which is created depends on others, and can be bound by duty. An intelligent creature, because only that being who is intelligent can recognize the authority of the superior, and accept his command. A free creature, because only a free agent can himself determine to be ruled by moral laws. Therefore, amid all the visible things of this world, man alone is and can be the subject of law. We may now give the various divisions of law which exist:—

38. First. Divine and Human Law.—The law, in reference to its author, may be either Divine or human. It is Divine, when its commands proceed immediately from God, and when His Divine Will becomes, in itself, the rule of what is to be done, or of what is to be omitted.

It is human, when the command comes indirectly from God, and directly from man. In this case, it is the will of man which constitutes, approximately, the rule or reason of what is to be done, or of what is to be omitted. We say, approximately, because, in the final analysis, the reason of the duty and the force of the command always remain the Will of God, from Whom man desires the power to rule others.

39. *Second.* The Natural, and the Positive Divine Law.—The Divine law, in virtue of its different promulgation, is divided into natural and positive.

40. The Natural Law is the Will of God, as made known to us by the nature of things themselves, and by the practical order existing in them, and from which this order is revealed to us by human reason.

41. The Positive Divine Law is the Will of God rendered manifest unto us in a supernatural or extraordinary manner. We call it, Positive Divine, to distinguish it from the Positive Human Law, which is itself subject to another division—viz., Divine and human.

42. *Third.* The Civil and the Ecclesiastical Law.—On account of a diverse order of power, which, as we shall see, may be established amongst men, Human Law, if the command comes from him who is the head of civil society, is called Civil Law; and, if it comes from the one who is the head of the Church in religious society, it is called Ecclesiastical Law. In every law, either Divine or Civil, there is a precept, which may be either affirmative or negative. When the law exacts an action which, in itself, is the matter of the law, then the precept is affirmative. On the other hand, when the law forbids such and such an action to be done; or rather, when it bids us to abstain from doing that action which is the matter of the law, then the precept is negative.

43. These two Precepts are differently Binding.—In both affirmative and negative precepts, the force which obliges is the same, and this force is always to be

measured by the force of the law. Nevertheless, the manner in which one binds the subject is different from that in which the other binds him. For instance, the affirmative precept binds the subject to do a thing in a stated time or condition ; but, when this time or condition is past, there is no further obligation for the subject. Thus, I am commanded to support the poor, but, when there are no poor, or when I myself am in a state of extreme poverty, I am free from this obligation imposed by law. Therefore, this precept does not always oblige, nor is it binding under every condition.

Now, the negative precept obliges at every moment and under every condition, because there is no moment in which the subject is allowed to do a forbidden thing. This precept bids man always to abstain from doing what is forbidden ; whereas, the affirmative is at all times binding, but not always absolutely so.

44. These two Precepts may be observed and violated in a different way.—By doing the action commanded, we fulfil the affirmative precept ; and, by not doing it, we transgress it. Whereas, the negative precept is fulfilled by omitting a thing or action prohibited, and it is transgressed by doing it. Hence, the violations of the former are called sins of omission, and those of the latter, sins of commission.

By omission, we mean the negation of a work prescribed by law, and not the negation of every deed. Where the act or work is non-existent, there cannot be either agreement with, or discrepancy in, the rule of acting ; neither can there be either the fulfilment or the violation of the law, because nothing is productive of nothing. The transgression of the law is always committed by a positive act of the will, which chooses either to do what the law forbids, or not to do what it commands. The man who thinks not of the existing precept, and who acts not in conformity with it, neither fulfils it nor violates it ; in a word, he does neither right

nor wrong. Hence, in morals, what is said about commission, is to be understood, in like manner, about omission—viz., when the action is held as the matter of sin ; because the sins, both of commission and of omission, consist in the positive act of the human will.

II. The Existence of the Natural Law.

45. The existence of the natural law will be firmly settled and made apparent, if we can demonstrate that God exacts of man either to do or not to do some special thing. This we shall clearly prove.

God, Who does everything for an end, cannot but assign to everything that being and that power of acting which cause it most easily to gain its end ; because He cannot but adopt the necessary means for the attainment of the proper end. This means can be only one, since the shortest way that leads to a determined point is one, and one only. Therefore, God must assign to everything its own determined being and power of action. Now, man, having been placed in a condition or state perfectly free either to act or not, cannot regulate his actions through the agency of physical laws. Hence it follows that God left him the moral law, as the chief means of regulating them.

We say, the moral law, because this regulation better corresponds with the infinite majesty of God ; for He, being the Supreme Master of all things, shows forth His omnipotence to a greater extent, in obliging man simply by authority, than in compelling him by physical force or absolute necessity. And, indeed, the two great perfections of God—viz., mercy and justice, would never have been known to intelligent beings, if, instead of commanding them by moral laws, He had commanded them by physical force or absolute necessity. In this latter case, man, being unable to transgress God's commands, would need no mercy.

The transgression of the law, or the aberration from that

end which God has assigned to man, is pernicious to the transgressor, but does not absolutely prejudice the end for which he was created, since he may still attain it, in virtue of God's mercy, by forgiveness. His justice is also most prominently shown forth by the punishment of the reprobate who, until the end of his life, transgresses God's commands, never reforming nor truly repenting. It is, therefore, a wise thing that man should have moral laws to guide his actions ; and God wills it to be so.

The existence of the natural law is further proved by the following argument. The fact of creation places creatures in an essential relation to the Creator and to His subjects. The diverse natures with which the Creator has invested His creatures, and the different states in which He has established them to attain their last end, reveal a certain subordination amongst them, through which, if many are equal among them, some must be subservient to others. These relations constitute that order which is called physical order. This physical order is a fact, a reality, and a truth ; so that, God, Who in His very essence is Truth, could not but render it manifest to the creature endowed by Him with intelligence. And the gift of intelligence was given, in order that truth might be known, admired, and loved. Now, the will of God, Who created man to know the truth, is His law to man. Therefore, there exists a law established by God, and this law, which is recognized by human reason, is called the natural law. Therefore, the natural law necessarily exists.

The existence of the natural law is proved by a third and most irrefutable reason—namely, the universal *consensus* of mankind. All people, both of past and of present ages, have, by the use of reason, admitted things in Nature to be either honest or dishonest,—either morally good or morally evil. Now, the idea of honesty and dishonesty,—of good and evil,—could not exist, unless there were a ratio or rule, whereby to judge whether the thing is

good or bad. This ratio or rule can be nothing else than the natural law, from which we learn the discrepancy between good and evil; but the universal consensus of mankind is a strong argument of truth; therefore, no one can deny the existence of the natural law.

46. **Nature cannot be the Author of the Natural Law.**—If by Nature we mean God, as many philosophers do, then Nature, in this sense, is undoubtedly the author of the natural law. But if by nature we mean what it is commonly understood to be—viz., everything that is in the order of creation, then Nature, in this second sense, cannot be the author of the natural law, because Nature, as thus understood, has no superiority over man, nor the right to command him, nor the authority to oblige him. Man cannot be his own superior, and, therefore, he cannot impose duties on himself. Human reason, which is the greatest faculty that man possesses in order scientifically to know the essence of things, would no longer be a right faculty, if it were to demonstrate to man the existence of duties without their only possible cause, or rather, without a reason which cannot be found in Nature.

Nature may be compared to a book in which the law is written, or to a herald by whom the law is promulgated. Human reason is the faculty by which we read this law, and understand its promulgation; but neither the one nor the other can be either the author of the law, or the cause which produces it, or the essence which constitutes it.

The things of Nature, taken as creatures of God, and created for a special end, and made by Him for this end, have in Him the nature which belongs to them. Now, the things of Nature thus understood, in their formal and most material way of existing, may be cited as the fountain head of our duties and the law of our actions; because, in this sense, Nature appears in itself to be the expression of the Divine Will by way of creation. Nevertheless, even in this sense, the author and true cause of

our duties is always God. Nature commands us, just as the word of the Superior does. But what really commands us, is not the imperative word of the Superior, but the Superior himself, His will, and His authority, rendered manifest by words. So, Nature may be called, indirectly, law, because it makes manifest the will of the Superior, which is the law in itself.

47. The Natural Law contains several Precepts.— Although the natural law is but one, as its author is one, and its end one; nevertheless, it may be divided into as many laws and distinct precepts as the actions to be performed are specifically distinct in themselves, and as diverse as the proximate end for which these actions are commanded. So, for instance, the precept, “Thou shalt love God,” is distinct from this, “Thou shalt love thy neighbour;” and the precept, “Thou shalt not steal,” is different from this, “Thou shalt not kill.”

48. What is the General Precept, in which the whole Natural Law is contained?— As created beings of different species may belong to one genus, so, actions of different species, as well as laws affirmative and negative, may all be reduced to one only precept containing the morality of different actions. For instance, if there were a precept telling me not to move, I should, by this general prohibition, be forbidden to run, walk, turn, nod, or gesticulate, &c.

On this ground, philosophers have laboured to find out a general principle or rule, which should comprehend in itself the whole natural law, both negative and affirmative, as a fundamental precept, and as the first precept containing in itself all that is either commanded or prohibited by the natural law. All philosophers agree in admitting it, but, in pointing it out, they differ. Some formulate it thus: *Do good and avoid evil.* But this formula cannot contain the general or fundamental precept of the natural law, because the good which we ought to do, and the evil which we ought to avoid, are

each the consequence, and not the antecedent, of another binding precept: and, therefore, if the formula contains not the antecedent, it cannot absolutely contain in itself the whole natural law. Hence, we reject it.

Other philosophers, on the contrary, comprise this general principle or rule, in this imperative formula : Observe the order which is in all things.—With these philosophers we agree, and with them admit this to be the first and general principle or precept, in which all the other precepts are contained. A wider precept than this could not be found. It is, as it were, the genus to which, as to a centre, all other species or precepts are directed. Observe the order which is in all created things, and you will abide by or fulfil the law. By fulfilling this law, you will do good ; and, by breaking it, you will do evil. Therefore, the idea of good and evil is contained in it; and the precept, to do good and to avoid evil, cannot be the first general principle, as we have already stated ; but rather this :—Observe the order which is in all things.

49. The Matter of the First General Precept is, the Physical Order.—We say the physical order, because the moral order cannot be its matter. And, indeed, the order which we are commanded to observe, to respect, and to maintain in all our actions, is the physical order—namely, all the relations existing, by way of creation, between God and His creatures ; or which exist among the creatures themselves for the fulfilment of the diverse offices assigned to them, for the attainment of their end, for the dependence or subordination in which they are placed, and through which one must serve the other as a medium, whereby to acquire that final end to which all are tending. This order, in itself physical, contains the moral order, which is the union of all the actions required for the full preservation of order ; or the union of the laws and precepts which are, in a more or less binding manner, imposed ; or, in

fine, the union of all the duties which issue from those precepts ; so that, by the physical order, we know and weigh the moral order. Hence, if the moral order is the Divine Law with all its precepts, the physical order must be the expression or manifestation of the same law.

Therefore, the physical order of things is the matter of the first general precept of the natural law. It cannot be the moral order, because, if it were, then it would be resolved into this formula :—"The law commands us to observe the law," which is an absurdity ; because, not having either an object or a subject, nor prescribing, either in a general or in a particular way, what is to be done or not to be done, it would command nothing. It would be ridiculous to assign, as the first general precept, a formula which, instead of containing all the precepts and showing them forth, could contain not even one, as we have previously seen.

III. Properties of the Natural Law.

50. All philosophers agree that the natural law must necessarily be universal, clear, and immutable. These three qualities of universality, clearness, and immutability, we style the properties of the natural law. We say this law must be :—

First.—Universal, because it must exist in all ages, and in all places, and it must be the same in all human beings ; since the nature of things and the human reason are always the same in the order of creation. Human reason could not but constantly admit, in every age and in every place, the same relation of things, the same order, and the same Will of God ; in one word, the same law. This law may be more or less clearly understood, and more or less developed in its particular precepts, according to the diversity of places, of ages, and of persons ; but never can it be ignored in its essence. Therefore, the law is Universal.

Secondly.—Clear, because the natural law ought, in its first absolute precepts, and in its proximate conclusions, to be so clear as to be understood by every human being. Were this law obscure in its substance, and difficult to be understood by human beings, it would not be natural, since it is called natural on this ground alone—namely, that it is understood in its own essence by the human intellect, in the nature of things.

Thirdly.—Immutable, because of its being universal. That it is universal, we have already proved ; and, were we to admit that its essence is subject to changes, this property would be, *ipso facto*, destroyed. *Ergo*, being universal, the natural law must necessarily be also immutable. Hence, we lay down the following principle :—

51. Can the Natural Law be Changed ?—Before answering this question, we must state how a law can be changed. It can be changed in three ways : *First.*—By abrogation, which is the total revocation of the law by the lawgiver, whereby it thoroughly ceases to be law. *Secondly.*—By derogation, which is a partial revocation of the law, whereby the law, in some part, ceases to bind the subject, and, in some other part, still binds him. If both abrogation and derogation be only *ad tempus*, after which time the law would resume its binding power, then they would be better defined as suspension of the law. *Thirdly.*—By dispensation, which is a permission granted by the lawgiver either to some or to all of his subjects to act, in a stated case, against the law ; or rather, it is that act whereby, though the law itself still remains, the lawgiver exempts either some or all of his subjects from fulfilling it. Supposing the above to be well understood, we say :—

52. *First.*—The Natural Law cannot be Abrogated, because its essential part, or rather its essence, consists of things which, so long as God is God and we are His creatures, must be commanded, as we shall presently see.

53. *Secondly.*—The Natural Law cannot be Changed by Derogation, so long as the nature of things remains the same. But the nature of things will always remain the same and in the same order, with reference to the Will of God, which must ever be the same; therefore, there can be no derogation of the natural law. Nevertheless, God may, in some particular case, permit man to act differently from what the natural law commands; not, however, by “derogating,” but by “dispensing” from it. This we shall shortly prove.

54. *Thirdly.*—No Human Power can Dispense from the Natural Law, because no man, however high his position may be, can either loose what God has joined together, or dispose against the disposition of God. Men enjoy only as much authority as is granted them by God; it would, therefore, be absurd for a man to dispense with a law which, being in itself the manifestation of the Will of God, must necessarily be obeyed and fulfilled by man. Still, if a lawful superior were juridically to dispense a subject from some points of the natural law, this act of authority would not be, strictly speaking, a dispensation, but simply a declaration that the natural does not, in that particular case, oblige, or that it cannot be extended to such particular case.

55. *Fourthly.*—Not even God can Dispense from those Precepts of the Natural Law, which are in Direct and Immediate Relation to Himself.—Such precepts are those which command us to know God as the Supreme Being; to love Him above everything; to respect Him in Himself, and in all His ordinances; and which forbid us to hate Him, to insult Him, and to blaspheme Him. All these actions have, for their absolute object, God Himself.

These actions, formally taken, must necessarily cause men to know the truth in itself, so as either to adhere to it or to reject it. As Truth is that which necessarily is, so to know God as the eternal infinite Being,

is to know the truth ; to recognize Him as our Master and Lord, is to know the truth of creation ; to appreciate Him and to love Him above everything, is to know the truth of His infinite perfections—viz., that He is infinitely good, both in Himself and to us ; to respect Him in Himself and in His decrees, is to know the truth of His supreme and absolute rights, and of the essential relations which exist between Himself and His creatures. On the contrary, if we recognize some one else as our Lord and Master, we go astray from the truth and adhere to error. To hate God, is to admit in Him some imperfection. This is error. To insult and blaspheme Him, is to contemn Him. This also is error. But God, Who is the essence of truth, must essentially love truth and hate error. Hence, truth, in itself, is the cause or reason of all that He rejects ; because His Will, being guided by His own infinite Wisdom, cannot but adhere to that which is, and reject that which is not.

Moreover, God created the universe to show forth what He is in Himself ; or, rather, to render truth known. He endowed man with understanding to know what God is—*i.e.*, to know the truth, and to adhere to it. Consequently, God could not but will that man should know and follow the truth. He could not in any case, however abstract, permit truth to be supplanted by error, or allow man to profess error instead of truth.

God, although Omnipotent, could not but exact of man the fulfilment of the precepts of he natural law in reference to Himself, and forbid their contraries ; because, were He to act differently, we should have to admit in God an equal love for truth and error. But how could we believe in a God, Who is the essence of truth, and Who, at the same time, loves error ? How, in this case, could His infinite righteousness be consistent with itself ? How could His infinite goodness appreciate what is evil ? Now, all these absurdities would logically follow in God,

if He were to dispense man from those duties and precepts which are dictated by the natural law, and which have been previously stated. But, in God, no absurdity can exist; hence, He cannot dispense man from acting according to these precepts of the natural law. He cannot allow any human being to act in opposition to these precepts, but He must necessarily exact their absolute fulfilment, for the preservation of right order.

56. God can dispense from those Natural Precepts which Man has in reference either to Himself, or to his Neighbour.—This truth is very clear, and even self-evident. The actions of which we here speak, regard the maintenance of those relations which God has established among His creatures, by assigning to each one his office, in order that the final end of all human beings may be attained. These actions are such as ought either to be performed or omitted, as the case may be, for our own preservation and the preservation of others; for our own happiness and the happiness of others; for our own perfection and the perfection of others. For instance, we must fulfil the precept to take nourishment, to help those who are in want, &c.; and the precept not to kill, not to steal, not to hate, not to slander, &c. Now, these actions are to be performed or omitted, not because the nature of things, or the order in which these things are, necessarily exacts such performance or omission; but because God, Who imparted unto men their nature, and Who placed them in a certain relation to all other things, has decreed that they should thus attain their final end. Therefore, the duties and rights, derived by men from the disposition of these things, are but the will of God. Nature and physical order may, indeed, prove the existence of men's rights and duties, but they can never be the reason or principle of that existence.

The above argument being well understood, we may safely say that the actions corresponding with the above

precepts of Nature, in reference to man himself and to others always retaining the same nature, may be lawfully omitted, when prohibited, by God's dispensation.

Nay, by such dispensations, God manifests unto men, in a most clear light, the truth of His supreme dominion over them and over all created beings ; and men thus understand God's thorough independence of every created being, and His absolute rights over all. By these dispensations, His greatness, His extrinsic glory, and the end for which He works, are most solemnly shown forth. Hence, not only is it possible for God to dispense from the natural law, but often it is in itself a good thing and worthy of God.

God, being the Supreme Master of everything, may, without breaking any precept of the natural law, command a father to sacrifice either one or all of his children ; He may allow a man to rob his neighbour of all his goods ; He may permit a human being to take away either his own life or that of another who is innocent, &c.

By dispensing from His natural law, God does not, as many philosophers assert, either materially or formally change the law ; but, while the law still remains law, He renders the act no longer opposed to reason. For example, the natural law forbids suicide ; but suicide, as a negative precept, is the formal object of the same law ; and when God permits suicide, He does not cause suicide to cease from being suicide, but rather, while it always remains suicide, He takes from it its malice. Consequently, God, when dispensing from the natural law, neither changes nor destroys the law, but simply causes an action which in itself is unlawful, to be lawful, and *vice versa*. This He can do, because He is above the law—*i.e.*, being above the law, He can dispense from it.

The same thing is to be observed in the civil law. When the lawgiver either commands or forbids an action, the subjects must abide by his law. No one can, of his own authority, do what is forbidden by these laws ; yet,

if the superior were to permit us to act against his law, we could do so without breaking the law, or rather, the action would be neither unlawful nor wrong. And what is this but dispensing from the law? Nay more, the superior, by permitting his subjects to act against the law, does not destroy it either materially or formally, as the law still remains law.

In conclusion, when we say that God can dispense from the natural law, we do not assert that He, being immutable, changes His will; but that, in establishing His law, He also establishes those dispensations or exceptions which, in certain cases, He allows to happen. Like miracles, which are dispensations from or suspensions of the physical laws of Nature, these dispensations are in perfect unison with His immutability. Dispensations from the moral law, as well as from the physical law, are but the decrees or dispositions of the Divine Will. Moreover, God, in creating the nature both of man and of things, lost not one iota of His power over them; neither did He cease to be their absolute Master, nor did He lessen His free will. Therefore, these created beings are not impediments, either physical or moral, to His wishing what He desires from them, whether by the fulfilment of the natural precepts, or by a dispensation from their fulfilment, when everything contributes to the end of creation and to the homage payable to God's divine attributes.

IV.—The Sanction of the National Law.

57. We have already said that the subject of the natural law is man, on whom is imposed the obligation to obey the law. Now, by the word *sanction*, we mean all that may constitute the motive whereby the subject is compelled to fulfil the law. Whenever man is moved to act, essentially, he is moved either for the acquisition of a good, or for the rejection of an evil; and, con-

sequently, the sanction of the law consists either in the good acquired by observing the law, or in the evil merited by disobeying it. This good, conferred on the subject by the superior as a recompense for observing the law, is called reward or guerdon ; and the evil merited, is called chastisement or pain. It is either this reward or this pain which constitutes the sanction of the law.

58. This sanction may be either perfect or imperfect. It is perfect, if either the reward or the pain be such that, when known or appreciated by men, it will lead them to fulfil the law. On the contrary, the sanction is imperfect, when it is not such as to lead them to the fulfilment of the law. On this ground we lay down the following truths :—

59. **The Natural Law has its Perfect Sanction.**—This we prove, as follows :—*First*.—To perform useless things is repugnant to the wisdom of God. But the natural law without its sanction would be useless, because it would lack a motive or criterion whereby men could be led to observe it. Since God is its author, He must have sanctioned it, because He cannot do a useless thing. The force of this argument is plain. We stated that the natural law would be useless without its sanction ; and this is true, because man, by fulfilling a law which has no sanction—*i.e.*, which has not a good in itself—cannot attain good or happiness. But man always acts for a good. *Ergo.*

Secondly.—It is repugnant to the goodness and veracity of God to be indifferent as to the sanction of the natural law ; because, by being indifferent, He would equally love good and evil, truth and error,—which is absurd. He must have sanctioned the natural law, for He is infinitely good and truthful, and He could not therefore be indifferent with reference to the order of things in Nature.

Thirdly.—It is repugnant to the justice of God to hold in the same estimation the man who, with great

effort, fulfils the law, and the man who, with the greatest ease, transgresses it, thereby, at the same time, disturbing the order of things. But this absurdity would exist in God, if He did not sanction the law; therefore, He must have sanctioned it. Being infinitely just, He must necessarily love both the order of creation, and the observer of that order, which is the Will of God; and He must necessarily hate the disturber or transgressor of His will. Therefore, God, in giving a natural law, must have perfectly sanctioned it, by establishing a reward for its fulfilment, and a punishment for its transgression.

60. **The Sanction of the Natural Law is either the Acquisition or the Loss of that Happiness to which Man tends.**—Man, a creature of God, yearns after his own happiness. Not by his own choice does he long for it, nor in consequence of a contracted habit, but by a natural impulse ordained by God. Yet, this man, who is impelled onwards to happiness by God Himself, experiences unhappiness. There is not a man who either is not in want of something, or who is perfectly satisfied, or who does not continually need something. All are, more or less, subject to sorrows, to discontent, to labour, to weariness. Poor suffering humanity is surrounded by such an ocean of wickedness and misery, that the poet could not but exclaim:—“Man is born crying, and lives in sobs, and dies in tears.”

Now, God, who created man with a natural tendency to happiness, and yet placed it far away from him, could not have created him to be for ever bereft of it and to be thus in constant suffering. This would have been repugnant to His infinite goodness. To direct man to an end and not to allow that end to be attained is, in itself, contrary to veracity and sincerity. Consequently, if God made man with a natural tendency to happiness, but without the possession of it, He did so, because He willed that it should not be a gratuitous gift, but that

it should be obtained by the accomplishment of the whole natural, positive, and revealed law, by leading a good life and fighting against evil the whole of one's days.

The acquisition of happiness is the result of a good life ; its loss, the result of an evil life : either the reward or the punishment to come is the sanction of the natural law. God, in His infinite goodness, by giving to man the power and the wish to acquire happiness, indirectly promised it to him, because He cannot refuse it, except through man's own misconduct.

61. What is happiness ?—By the word happiness, is meant that state of rest, of joy, of contentment, and of satisfaction, in which an intelligent being may exist. So, the happiness of man is that rest which he enjoys in the acquisition of a desired end or in the possession of a satiating good.

This happiness is twofold:—**Formal** and **Objective**. The former is the state of quiescence or the joy experienced in the possession of a good. The latter is the good itself, which, when possessed, produces rest, joy, and satisfaction. Yet, when we use the word happiness, it is always to be understood in its formal sense.

Moreover, happiness is again divided into perfect and imperfect. Perfect happiness is the full rest or peace enjoyed in the possession of a good which leaves nothing more to be desired. On the other hand, imperfect happiness is the enjoyment which one desires from the possession of a good which does not fully satisfy, but which leaves the mind desirous of another greater good ; which satisfies the appetizing faculty, but does not thoroughly satiate it. True happiness, therefore, is only that which is perfect, and which may also be called beatitude.

62. Man longs for Perfect Happiness as his Last End.—The end of man is that which, when obtained, ends his longing for it ; he enjoys it, and reposes in it. But this yearning of man can end, only when he arrives

at perfect happiness ; because not to be perfectly happy, means that there is still something either to wish for, or to be done, in order to fulfil one's desire. Therefore, the end of man is perfect happiness or the acquisition of a perfect good which satiates him.

63. **The Formal Happiness of Man** is attained by the Union of his Intellect and Will with his Material Object.—The enjoyment of perfect happiness can be obtained only by an act of knowledge, which satisfies the intellect in the contemplation of that truth or good which man is continually seeking ; and by an act of love which contents the will in the fruition of that same truth or good. By these two human faculties, the intellect and the will, man is always tending towards an end, in order to win it and repose therein. When his intellect sees the truth or good in its future, and when his will unites itself to it in such a compact manner as to wish for nothing more, then, his uncertainties having vanished, and his tendency being at an end, he finds himself in a centre, and therein he reposes, for he is perfectly happy and blessed.

64. There must be a State and an Object, in which **Man finds Perfect Rest**.—There must necessarily be a state and an object capable of appeasing the tendencies of man, and of satisfying him in all the wants of his soul. Not only must they exist, but they must also be within the reach of man's acquisition, in order that he may enjoy such acquisition. If this were not so, God would have created man with natural wants which could never be satisfied. But this would involve imperfection on the part of God, and we have already proved God to be infinite in His perfection. So, if He created man with natural wants, there must be a state in which these wants can be satisfied ;—an object sufficient to satiate them ;—and a possibility of reaching that object.

65. What are the Conditions of a Thing, in order that it may become the Formal Object of Man's Happiness ? They are the following :—

First.—It must be exempt from all kinds of evil. This needs no demonstration.

Second.—It should be replete with all the good that man can wish for, so as to leave nothing more to be desired in the shape of a greater good. For, both the desire of another good, and the anxiety about the good already possessed, destroy that perfect rest and unalloyed happiness which man seeks as his end.

Third.—It must be sufficient for all, and within the reach of every human being, so that, by possessing it, every one will be perfectly blessed. It would be unworthy of an infinite God to grant only to some the possibility of attaining perfect happiness.

Fourth.—It must be suitable to the end of creation, so that man, finding in it that happiness which he so eagerly seeks as the end of his actions, may also be able to correspond with the end for which he was created. Because both the end of creation and the end of man are willed by God; they cannot clash, the one against the other; but they must agree with each other, so that, whatever be the last end for which man works, it should likewise be a medium whereby to attain the end for which God created man.

66. **Material Good, such as Riches, Honours, and Dignity, cannot be the Object of Perfect Happiness.**—Some philosophers have placed perfect happiness in the possession of the outward goods of creation—as riches, fame, honour, and glory. This doctrine cannot be true, for these goods cannot thoroughly satisfy man's cravings. Riches, for instance, instead of satisfying man, render him unhappy. They enkindle in his heart the fire of avidity. They create a thousand miseries for the man who possesses them. They fill him with a thousand vexations and fears lest he may lose them. They render him endlessly uneasy, by reason of the restless envy of others. He can rarely obtain them without victimizing his fellow-men;—and, therefore, if riches were man's

last end, then, in proportion as one man achieved that end, another would deviate from it. Thus, God would have established the end of man in that happiness which could be acquired only by some, and not by all.

What we have said about riches, may be also applied to fame, honour, and glory. Where is the man who thinks that he is as much honoured and gloried as he deserves to be? No human dignity can satisfy the ambitious man. He is ever on the alert for greater dignities than those which he already possesses. No human glory contents the proud man; it only enkindles his ambition. Can, therefore, any human being ever attain such dignity, fame, or glory, as he longs for? No! Hence, outward and worldly goods cannot be the object of man's perfect happiness, nor his last end.

67. Internal Goods, such as Health, Wisdom, and Virtue, cannot be the object of Perfect Happiness.—These we call internal goods, because their dwelling-place is within the person who enjoys them. If they reside in the body, they are corporeal; if in the soul, they are spiritual. These goods, be they either corporeal or spiritual, cannot be the formal object of the perfect happiness of man, nor his last end.

68. Health cannot constitute perfect happiness, because health is not within the grasp of every man; and, even if it were, it could not be said that man has perfect mastery over it. Nay more, health may most violently prompt man to satisfy his wicked passions, and may lead him to neglect the precepts of Nature. It cannot, therefore, in itself, be perfect happiness.

69. Wisdom and Knowledge in this life cannot be the formal object of perfect happiness, because the wiser and the more learned a person is, the more does he perceive his great ignorance. We know that there are countless mysteries hidden in the bowels of the earth, and concealed from man. Not being able to unravel either these mysteries, or many others which exist in

every state of Nature, man greatly feels his lack of knowledge. He who knows much is vividly sensible of his own ignorance, whilst fools and braggarts boast of knowing everything. Wisdom and knowledge cannot, therefore, be the end of man, nor, consequently, perfect happiness.

70. Virtue cannot be the formal object of true happiness, because, in its essence, it is a continual sacrifice of one's will and pleasure. But a continual life of sacrifice is the opposite of a peaceful and happy life; hence, virtue cannot constitute real happiness. Nevertheless, if a virtuous man, notwithstanding his sufferings, trials, and tears, experiences greater joy and consolation than the profligate who satisfies his own lusts, the reason is, because a virtuous man, by leading a life of sacrifice, checks his passions, diminishes the cravings of a vicious nature, and awakens the hope of attaining his end;—but not because virtue is either, in itself, perfect happiness, or a guerdon to itself.

71. Many philosophers of the past maintained that **voluptuousness**, as formally taken, is the real object of perfect happiness. We deny this theory, whether we consider voluptuousness as enjoyment or pleasure in itself formally taken, (namely, either permanent or transient, perfect or imperfect happiness), or whether we consider voluptuousness as luxuriousness or addiction to sensual or animal gratifications, or rather to the sensual pleasures which are experienced by giving full vent to wicked passions. In this sense, voluptuousness cannot be the formal object of perfect happiness, because, instead of producing happiness, it produces unhappiness. Suffering humanity bears testimony to this statement; for who can enumerate the long list of miseries, ruins, sicknesses, and losses, both moral and physical, which spring from it, and flow like a mighty river carrying everywhere desolation and ruin. Let the voluptuous man speak, and deny, if he can, that momentary pleasure

becomes a very sword piercing to his inmost conscience. If perfect happiness is not to be found in any of the above-mentioned things, we are safe in stating the following conclusions :—

72. The above-mentioned Goods cannot be established by God as a sanction to the Natural Law.—The first reason is, because these goods are not equally divided. Of two persons, who have the same duties and equally practise them, one may be rich and the other poor ; one may be healthy and the other infirm ; one may be learned and the other ignorant. Generally, it is not the richer, nor the healthier, nor the more honoured who observes his duties the more perfectly ; for, honours and dignities are often the lot of the transgressor and not of the observer of the law. Hence, if the above goods are to be the formal object of man's perfect happiness, where is God's justice, when we see the reward given to him who transgresses, and the punishment to him who fulfils the law ?

The second reason is, because the above goods, when possessed and enjoyed by men, instead of leading them to love God more and more, are the very means whereby men are lured into forgetfulness of God. Daily experience most powerfully and most sadly teaches this. Therefore, the happiness which results from the acquisition of these goods cannot be the final end for which man was created—viz., his perfect happiness.

73. God alone is the Formal Object of Happiness.—All the conditions that we have proved to be inherent in perfect happiness are to be found only in God. For He alone is infinite ; or, as the schools say, *purus actus et totus actus*,—reality without defect, veracity without falsehood, and good without evil. Thus, He alone can be the object capable of contenting man's will and intellect, which, while they tend to some particular good or happiness, yet most certainly tend to that good or happiness, which is, in itself, perfect,

unlimited, and absolute. But this good can be only God Himself ; therefore, He alone is the formal object of perfect happiness.

Moreover, God, Who is infinite in Himself, can be possessed by all without distinction, and, in Him, all can be perfectly blessed. The possession of God, whilst satiating the intellect and will of man, brings to him that felicity which he so perseveringly seeks, and in it, as in his centre, he reposes with perfect bliss,—reposes in the contemplation of God, Who is now revealed to man in all His infinite perfections, which are the end of man's creation. Hence, God alone is the formal object of perfect happiness.

74. The Present Life is ordained for Meriting, and not for Enjoying Perfect Happiness.—This assertion may be easily proved :—

First.—Because no man, either in ages past, or in this present age, has ever enjoyed it.—The records of humanity prove that there never was a man who was perfectly happy.

Secondly.—Because, among all created beings and things, there is not one that can, when obtained by man, render him perfectly happy. The things of this world are but vanities. If you, reader, were to possess the whole world, you would still feel the want of something which you could not obtain. I will allow you, therefore, to conclude the syllogism yourself.

Thirdly.—Because, even supposing that there be in the world such a thing as could render man quite happy, it could not be possessed in a perfectly satisfactory way, for death is ever ready to snatch a possession from the grasp of the possessor, at any moment of his existence. Hence, it could not give perfect happiness.

If God created man with a natural tendency towards perfect happiness, and if this happiness is not to be found in this world, then it must be found in some

other ; consequently, our life is only a state of trial, in which perfect happiness can be merited, but not possessed. The reason of this is, because God willed it ; and no power can change the unfathomable decrees of the Supreme Being.

75. **The Path which leads to the Acquisition of Perfect Happiness is the Observance of the Divine Precepts.**—God alone is, as we have said, the formal object of perfect happiness. The way to gain this happiness must be determined and understood by all. Now, the natural law, as we have before proved, is universally known ; hence, its completion is the course which leads to God, Who is the essence of perfect happiness, which happiness, at the same time, confirms the natural law. For this reason, it is only by fulfilling the natural law that we can perform God's will ; and as, by fulfilling God's will, we merit His love, so the complete observance of the natural law is necessary in order to obtain perfect happiness, and this is the only possible way given to human beings, whereby they may attain that end.

76. **The Acquisition or the Loss of God in the Future Life is the Sanction of the Natural Law.**—It belongs to the metaphysical philosophers to testify the existence of the spirituality and of the immortality of the human soul. Yet, as it is a principle of the greatest importance, let the student of moral philosophy examine the following few proofs in confirmation of it ; for we live in times in which pseudo-philosophers strive to justify abominations and vices, by means of disbelief in future rewards and punishments. This evil doctrine is taught now-a-days in many schools ; its teaching creeps from the palaces of the wealthy even to the hut of the peasant. But the maxims of free-thinking are adopted mostly by corrupted men, for it is indeed a horrible thing for the dissolute and irreligious man to look forward to everlasting punishment, and, moreover, the

belief in a future life is a troublesome check on the human passions.

If all shall end with us, if men have nothing to expect after this life, and if our country, our origin, and our only happiness are here, how is it that we are not happy? If we are created only for the pleasures of the senses, why are these unable to satisfy us? Why do they always leave in the heart a fund of weariness and sorrow? If man has nothing superior to the brute, why do not his days, like the brute's, pass by in sensual and carnal enjoyment, without either care or uneasiness, disgust or sorrow? If there is no other felicity for man to expect than merely temporal happiness, why can it not be found on earth? Whence comes it that riches serve only to render him uneasy, that honours fatigue him, that pleasures exhaust him, that sciences, far from satisfying him, confound and irritate his curiosity, that reputation constrains and embarrasses him, and that all these united cannot fill the immensity of his heart, but still leave something to be desired? All other beings, contented with their lot, are happy in that state in which the Author of Nature has placed them. The tranquil stars in the firmament quit not their stations to illumine another world; the earth, regular in its motions, shoots not upwards to occupy their place; the animals graze in the field without envying the lot of man; the birds carol merrily in the air, free from trouble or anxiety; all, in their respective states, are happy; whereas, man, and man alone, is uneasy and discontented; man alone is a prey to his unsatisfied desires, and allows himself to be racked by fears, and finds his punishment in his hope, and becomes, even in the midst of his pleasures, gloomy and unhappy. Man alone can meet with nothing here, wherewith fully to satisfy his heart's longings. Whence is this, O man? Must it not be that here thou art not in thy place, that thou art made for heaven, that thy heart is greater than

the world, that the world is not thy country, and that, whatever is not God, is nothing to thee? Check thy unruly passions, and reply.

Moreover, the opinion of a future life is corroborated by the universal belief of all ages and nations. Nothing has ever been able to eradicate the opinion of a future life. But the universal conscience of mankind is an argument on this subject, which cannot be destroyed, and it is to be held as an indisputable truth. Therefore, there must be a future state of life.

If everything dies with us, the maxims of equity, friendship, honour, good faith, and gratitude, are merely popular errors, since everything must sink into its original nonentity. If along with us there be an end of all things, then the sweet names of father, mother, child, wife, and husband, are simply theatrical appellations and sentimentalities, as all will collapse into their original nothingness. In one word, if everything dies with us, laws are but a foolish subjection, kings and rulers are phantoms exalted by the imbecility of the people, justice is a usurpation of man's liberty, and the law of marriage is a vain scruple, modesty is a prejudice, honour and probity are chimeras, incests, and parricides, and the blackest villanies, are mere pastimes of Nature and invented crimes. But this is not consistent with human nature nor with human wants. Therefore, there must be a future life, in which man will have either, as his reward, the acquisition of God, or, as his punishment, the loss of God.

. 77. This Reward and this Punishment will be Eternal in the Future Life.—We may prove this very logically, in the following manner:—

First.—He who has the happiness of being united to God will never be able to rebel against Him, and thus will never lose Him; because, being in the possession of a pure and an infinite good, he desires no future good, and he will always act in perfect conformity with God's will. Then, again, not being able to act against the

will of God, he will not be able to offend Him, nor thus to forfeit Him, and, therefore, there cannot be, on the part of God, a reason for rejecting him from Himself, nor for depriving him of that bliss for which He created him. On the contrary, he who dies in rebellion against God will never be able to merit forgiveness,—as the time, the state, and the mode of meriting, no longer exist. Consequently, there being no other reason why his chastisement should end, it follows that it will last for ever.

Secondly.—The guilt of transgressing the law of God includes disrespect for the legislator. But the legislator of the natural law is infinite in all His perfections; hence, the guilt must likewise, in its nature, be infinite, because its greatness is measured by the greatness of the superior who is offended, and not by that of the offender. Therefore, if the transgressor of the natural law offends God infinitely, it follows that the corresponding punishment must also be infinite, if not in itself, then in duration. Now, it cannot be infinite in itself, therefore, it must be infinite in duration.

Thirdly.—If either the reward or the punishment were not to be eternal, then God would not be just, as, in the course of time, He would allow the state of the wicked to be equal to that of the just and good. Nay, such a thing would also be repugnant to the wisdom and goodness of God, because the man, who wishes to act not according to God's command, but according to his own will, and who walks not in the path laid down by God, might one day be able to say, “Behold, I have attained my last end, even in spite of God!” On this account, reason teaches us that both the reward and the punishment must be of eternal duration. Hence, the impious will suffer for ever, deprived of perfect happiness, but the just will for ever enjoy this happiness. So, in the act of our death, and in death itself, we shall discover that what we have merited will for ever remain with us.

CHAPTER VII.

DUTY WITH REFERENCE TO HUMAN ACTIONS.

78. In the preceding chapter, we have spoken of the natural law, which is the will of God and the measure of our duties, and we have seen how the Divine Will rules man. In the present chapter, we shall learn how man ought to conform his own will to that of God; and we must understand :—*First*, What human actions are, or rather, what is the essence of human acts, and what are their different species; *secondly*, The morality of human acts; and, *thirdly*, Their imputability. These points we will deal with, as follows :—

God, Who exists of Himself, is the soul of the whole universe and of all created beings, and, by His will, He governs and rules everything with an absolute command. His will, therefore, together with His absolute command, full of force and justice, is the supreme rule of the actions of all created beings, although He does not demand of all, obedience to the same laws. For instance, mankind and the brute creation are differently ordered; consequently, it is according to the different manner in which He commands, that all creatures ought to obey and conform themselves to His holy will.

I. The Essence of a Human Act and its Divisions.

79. **What an Act is.**—The actions performed by man, or the operations which proceed from him, as from an efficient cause, may not all be called human, because the nature of man, in some respects, partakes of the nature of an animal, as, for instance, in the simply vegetative force. Thus, his operations may be the production either of his moral faculty or of his animal faculty. Hence, although man is always the subject *operans*, yet

his actions may be of a different species and character. Some of these actions are mechanical, some spontaneous, and others human. We shall here notice these divisions.

80. *First.*—**Mechanical Actions** are those which neither spring from, nor are performed by, the will of man—*e.g.*, the circulation of the blood, the digestion of food, the growth of the body, &c. To this category belong also many actions of the, morally speaking, sensitive and intellective nature of man. It is the will which causes us to listen, but, without exercising any will, we may hear; reflection is caused by the will, yet we may understand without it; study is caused by the will, still we may comprehend without its exercise.

81. *Second.*—**Spontaneous Actions.**—These are actions which spring from man's will, but which are without any determination on the part of it. In the case of these actions, the will of man, when placed before its object, intuitively and instinctively unites itself to that object, without considering the motives by which, when considered, man either would or would not perform the actions. This happens when the will, observing a good, at once seizes it, and, observing an evil, at once rejects it; or, when feeling a propensity, follows it, without considering the evil which may be contained in the goodness of that propensity. Often, by a motion of complacency, we applaud an action, which in itself is evil; and, through an impulse of anger, we may even kill an adversary. These actions are called spontaneous, because they are performed by the agent without any violence or repugnance, and through a natural tendency to perform them. This is the mode of acting which the animal nature possesses. But man, an intelligent being, may also in this way desire what an animal, not possessing intellectual gifts, could not desire. In this case, we may say that in virtue of this spontaneous act, the angels and blessed of heaven love God, the Supreme Being, as they are of necessity drawn to reverence, love, and adore Him.

82. *Third.*—The Human Act.—Properly speaking, the human act is that which proceeds from the will of man, accompanied by full deliberation and by a knowledge of what he is doing ; or, in other words, it is a free act, whereby man, in his present condition, performs an action, which he either might or might not perform. Now, these human acts are divided into many others, which differ specifically from one another.

83. 1. **Eliciti et Imperati.**—The former, eliciti, are those which proceed from the will, and which can be performed only by the will ; for instance, to wish, to choose, to love, to hate, &c. The latter, imperati, are those which also spring from the will, and yet are performed by the other faculties of man ; for instance, to speak, to read, to walk, to jump, &c. These acts proceed from the will, but they are performed by the bodily faculties.

84. 2. **Internal and External.**—Internal acts are performed within the agent, and to him alone are they known ; as, the wish to steal, to kill, &c. External acts are those which are outwardly performed by the agent, and which may be known to others ; as, to rob, to slander, to kill, &c. These external acts belong to the imperati human acts, because the eliciti are all internal.

85. 3. **Good and Bad.**—Human acts are good, if they agree with the natural law ; and, bad, if they are opposed to it. So, to love one's neighbour, or to help him in his wants, is a good moral act ; whereas, to hate him, or to do him an injury, is a bad one. Moreover, in connection with the division of human acts, we must understand what is meant by philosophers, when they speak of volition, of free will, and of the intellect, which are the intrinsic principles of human actions.

86. **Volition or Voluntarium.**—This, in general, is all that proceeds from the will of man, be it either a simple imagination, or a real action. In this sense also, what

we before called spontaneous, may be volition or voluntarium, because it proceeds from the will, and is done without any violence or repugnance. Nevertheless, in a strict sense with reference to moral philosophy, volition or voluntarium is only that which proceeds from a deliberate determination, and, therefore, from free will, with the full cognizance of the end for which man acts. Hence, in morals, to say that a thing is willed, is the same as to say that a thing is done freely. Therefore, these expressions, human act, free act, and willed act, as used in morals, always bear the same signification. Thus, when a human act contains one of the attributes manifested in the above expressions, it necessarily contains the others also. Volition or voluntarium is, moreover, subject to further divisions :

87. (a.) **Voluntarium Simpliciter**, and **Voluntarium Secundum quid**.—The first is that which is done without either any violence to, or repugnance on the part of the will ; in other words, it is that which is freely and willingly done. The second, **voluntarium secundum quid**, is that which is freely done by the will, but with some repugnance ; hence, the action, in itself, displeases, but it is done, in order that some greater evil may be avoided. For instance, a ship's cargo may be thrown overboard, in order that both the ship and the seamen may be saved from destruction. The captain would freely and deliberately command this to be done, yet most reluctantly. Again, a man who falls into the hands of a highwayman may deliver up his purse, in order to escape death. The act of handing over the money would be free and wilful, but repugnant. His action would be a human action. And, indeed, man in such cases acts with the full knowledge of what he is doing, and does it with a perfect determination, though with reluctance.

88. (b.) **Perfect and Imperfect**.—The perfect voluntarium is that which is done with full knowledge and

determination ; for instance, to know that it is intrinsically wrong to blaspheme, and yet to do so freely and deliberately. The imperfect is that which is done with an imperfect knowledge of the morality of the action, or without full determination. It will be more or less imperfect, in proportion to the greater or less volition, cognition, and determination, in the subject.

89. (c.) Direct and Indirect.—The first is that which is directly willed by the subject as the efficient cause ; for instance, to take a gun and fire at an object which the subject wishes to be shot. The indirect is that which is not perfectly and directly willed by the subject, though it is known to him ; for instance, a general may deliver an assault upon an enemy's city, knowing that many innocent people will be shot, yet unwilling to see them perish.

90. (d.) In se and in causâ.—An action is willed in se, when, knowing the effects which our action will produce, we deliberately do it ; for instance, to know that to rob a friend will leave him in complete destitution, and yet to commit the robbery. The voluntarium in causâ is that effect which is not willed in itself, but which is the result of another action whose consequences are imperfectly known to the agent ; for instance, if a man when sober does not fight, but, when intoxicated, he does so, and even deprives another of life, this action is not willed in itself, but only in its cause—*i.e.*, he might have foreseen that, by getting drunk, he would do some further wrong, and, therefore, this effect is willed in causâ. In order that the effects thus produced may be imputed to the agent, three conditions are essential :—1st. That the agent should, even confusedly, foresee the effect ; 2nd. That, by removing the cause, he might impede the effect ; 3rd. That he should be bound either to give or not to give rise to the cause.

91. (e.) There is another voluntarium, which is styled interpretative. This is not the willing of a thing in itself, but the disposition in the agent to have willed it,

if he had previously known it. For instance, if I owe a debt to a person, and I give him an alms, not knowing him to be my creditor, I should surely have wished to make him satisfaction by giving the alms, had I known him to be my creditor. Consequently, the voluntarium interpretative is not strictly a voluntarium, but rather a disposition to will a thing.

Now that we know what a human act is, and what are its divisions, it is necessary to know its morality. This we shall learn as follows :—

II. Morality of Human Actions.

92. The morality of human acts depends upon either the moral goodness or badness inherent in them, or upon the relation between human acts and man's duties. Moral philosophy is not the science of things and of their absolute perfections, nor of man and of his faculties, nor of the end of man and of all things ; but it is the science of that which man is bound either to do or not to do; or, as we said in the beginning, the science of man's duties. Hence, in its pure sense, the epithet, moral, means nothing else than something relating to duty, just as the word theological means something relating to God, Who is the subject of theology.

If, by moral, is meant something referring to duty, it would be illogical to seek the morality of human actions in that which is not called either moral good or moral evil, but which is, in itself, either physical good or physical evil. He who seeks the goodness and the badness of a thing in its essence is not a moralist, but an ontologist, who finds in it either the metaphysical good or the metaphysical evil. He who, by man's nature and operations, judges of his actions, is an anthropologist or psychologist, who perceives the physical but not the moral perfections of man. He who treats of man's creation and of his final end, is a theologian and not a moralist. The moral philosopher cannot draw from the above anti-

ties the reason, and have immediate recourse to them, to find out the morality of human actions. He must find it, as we have said, in the relation existing between man's actions and his duties ; although we do not doubt that a moral philosopher would draw from them great light, to explain and judge more perfectly concerning the goodness and the malice of human actions. From what we have said, we come to the conclusion that—duty is before morality. That which causes duty, also causes, to a certain extent, its goodness or its malice. This is the reason why an action is either good or evil ; because the postulates of a relation, to be logical, ought to exist before the relation itself. Now, moral good and moral evil are the relations of human acts to the duty which man has to fulfil them. Therefore, it is manifest that duty ought to be before either goodness or malice ; otherwise, one of the postulates, according to which the relation ought to exist, would be deficient, and thus the relation would be impossible. Speaking of moral good and of moral evil, we cannot, without breaking the laws of logic, say either that we ought to do a thing because it is good, or that we ought to avoid it because it is, *per se*, evil ; but because a thing is either good or evil, so far as it is either commanded or forbidden by duty. Now, let us understand the true definition of morality.

93. **The True Definition of Morality.**—Some philosophers define morality to be the relation of the human acts to their rule. This definition is imperfect, because it does not most clearly point out what this rule is, and in what it consists. Therefore, it engenders too much ambiguity concerning the specific essence of morality, since some might take for this rule, pleasure, and others, interest ; and, as is often done, each one, according to his rule, might measure the morality of his actions.

Other philosophers define it as the relation of the human acts to the law. But this definition cannot be

ad hoc, because the word law is, in itself, too abstract ; and the human act is too concrete, real, and actual, to be measured by an abstract rule. Therefore, we reject it. The human act, being concrete and real, ought to bear a real and concrete relation to a real and concrete rule. Now, we have already proved that law, in its concrete sense, is the will of the superior ; but the superior of man is God alone ; hence, the true and clear definition of morality is the following—viz., The relation, conformity, or nonconformity of human actions to the Will of God. Thus, when we conform our actions to the Will of God, we do good ; and when otherwise, evil. God's Will, therefore, is the rule and measure of human actions, and it constitutes their morality. This we prove by the following arguments :—

First.—To do a moral good is to fulfil our duty, and to act in conformity with it ; to do a moral evil is to transgress our duty or to act in opposition to it. But to act in conformity with our duty and to fulfil it, is just the same as to act in conformity with God's Will, and to fulfil it ; and to act in opposition to our duty or to transgress it, is just the same as to act against the ordinances of God's Will. Therefore, as the doing of moral good or of moral evil is the same as to act either in accordance with God's Will or in opposition to it, it follows that the morality of human actions consists either in their correspondence with the Will of God, or in their non-fulfilment of it.

Second.—To do moral good or moral evil, means to act either in conformity or in non-conformity with the laws which direct the actions of an intelligent being. We have already proved that the author of these laws is God only, as the Supreme Master of man ; but to act either in conformity with these laws or in antagonism against them, is the same as either to act in consonance with the divine ordinance, or to deviate from it. Therefore the morality of human actions must necessarily consist in

their relation to the commands of God and His divine will.

Third.—To do moral good is to obey, and to do moral evil is to disobey ; but the idea neither of obedience nor of disobedience could exist, unless there were a superior who could command ; hence, as God commands us to fulfil His holy will in all things, so this will of God is the rule of the morality of human actions. A human action, therefore, is good, when it is in conformity with the will of God, and bad, when it is against it.

94. **Without God's Ordinance, neither Moral Good nor Moral Evil can Exist.**—If we were to admit duty without a superior, we should admit an effect without a cause ; but we cannot admit moral good and moral evil, without admitting imposed duties ; so, moral good and evil cannot exist without God's ordinance, commanding the good in some cases, and forbidding the evil in all cases. Because we could not say that this or that thing, although not commanded, is good, and that therefore we ought to do it ; for, were we to say so, we should be forced to admit that we were commanded to do so by the superior of our Creator. This cannot be, nor does any one dare to say it. Therefore, moral good and moral evil have their origin in the ordinance of God, without which there is no duty ; and, if there be no duty, there can be neither good nor evil. Whatever is done, because it is commanded by the Superior of all, is good ; because it is done in compliance with the right which He has to exact it ; and, also, because it contributes to the welfare of the subject : and the good is loved by the Superior Himself, although it is performed by the subject for the acquisition of a greater good.*

95. In what Sense can we say that some things are **Forbidden**, because they are **Evil**, and that others are

* Admitting with the Schools that *bonum est quod est conveniens naturæ*.

Evil, because they are Forbidden?—From what we have said, it appears that this is only a question of words, proceeding from the want of a perfect meaning in the etymology of good and evil, which words can be used in various senses; and proceeding also from the imperfect knowledge which some men have of law or natural rights.

Some say that, among things, some are good, because commanded, and that others are commanded, because good. And again, that some are evil, because prohibited, and that others are prohibited, because evil. This aphorism stands very well in jurisprudence when applied to human positive laws, which frequently command what is openly commanded by the natural law, and which forbid what is forbidden by the same. These positive laws, to be just, ought always to be just. For, whatever be the dignity or the authority of men, they never can limit, nor ever have any right to limit, at their pleasure, the liberty of man. But, in reference to the natural law, the above aphorism cannot stand with regard either to moral good, or to moral evil.

That those actions or things, which by moralists are called either intrinsically good or intrinsically evil, are so, because they are either commanded or forbidden by the natural law and by God's ordinances,—we shall not be reluctant to admit. But, were they to call them so on account of their being either intrinsically good or intrinsically evil, in themselves and in their own essence, and, were they to say that their command issues from their so being, we should reject the theory as *minus probabilis*. And, indeed, if we were to admit that a thing is either intrinsically good or intrinsically bad, in itself, and in its own essence, then the thing would be independent of all law, even from the will of God, Who would not be free either to command or to forbid what is not opposed to right reason. *Ergo.**

* Be it understood that law does not make good. It commands

96. **Our Reason and the Physical Order cannot be the Principle of Moral Good and Evil.**—This statement we advance against those philosophers, who still persist in asserting that the moral goodness or badness of an action is deduced from the intrinsic good or evil of the action itself. In truth, our reason is not the rule, but simply the director of our actions. In morals, its office is to detect the true rule or measure of our actions; to compare it with the actions to be performed by the will; and, according to their agreement or disagreement with it, to judge whether these actions ought to be performed, or not. But if our reason does not discover this rule, nor yet compare its actions with it, it follows that our reason can regulate nothing; for, without a standard, it cannot measure; as, without a reason, it cannot form a syllogism; and as, without either principles or postulates, it cannot arrive at conclusions.

Now, our reason cannot find the cause of right and duty, the measure of good and evil, in the very essence of things, and, still less, in the natural objective order. It would not be flattering to us to have as a rule or measure of our actions, the essence and the relations of things in what they are in themselves; for, this would simply mean the sacrifice of our obedience to inferior things, and the obligation to follow the rules dictated by their nature. Hence, reason cannot find this rule of our actions or this measure of good and evil, elsewhere than in the essence of God, Who, having created all things in Nature, and having made them as they are, and in the order in which they exist, has manifested His desire for such order; and, by manifesting it, has imposed on us, His creatures, the duty of keeping and respecting it; thus,

what was already good, and forbids what was already evil, thereby producing a commanded good, and a forbidden evil. We admit that God is not free to command, nor even to permit what, in itself, is opposed to right reason, and what falls under His necessary Will—*e.g.*, He could not command Idolatry, &c.

finding good, He approves it, and finding evil, He forbids it, as good and evil depend, formally, on His essence. And this principle of philosophy is summarized in these sublime words :—“ Thy will be done on earth, as it is in heaven.”

97. God has no Order to follow, but, in creating things, He, at the same time, creates their Order.—This we shall prove against some philosophers who hold the contrary ; and we shall demolish their assertion—viz., that the supreme reason of good and evil is to be found in the essence of things, and in their relations, which constitute their order.

God, a Being in Himself, and by Himself, and for Himself, Who is one only, and most perfect and entire, has no order in Himself,—order being the disposition of many to one end, under one common rule. God, therefore, Who, by the necessity of His own nature, loves Himself, cannot have a real order which He should essentially love. Nay, there is not even an ideal order which, in the hypothesis of the creation of other beings, He should follow ; because, in creating beings, He creates them freely, and although He can create them, only for the manifestation of His extrinsic glory, yet, amid the infinite possible orders of things, He has not even one which He should follow.*

Consequently, instead of saying, as many do, that “God ought to desire order,” it would be better to say that, “ He necessarily does everything in order,” or, rather, that “ when He acts, He disposes all things with such regularity, as to perfectly correspond with the end for which He acts.” In other words, when He works,

* We admit that God is free to create or not to create. But, if He will create, He cannot do so except in number, weight, and measure, which depend on the nature of things in the ideal order, antecedent to creation, but not to the nature of God—*e.g.*, He could not create man subservient to his passions. When God chooses and creates an order, He must require what reason demands for its preservation, as He cannot permit disorder in the order He creates.

He is not subject to a determined or fixed order; but, knowing, through His infinite knowledge, that these things, thus arranged, are the means whereby to accomplish the end proposed, He, by desiring that end, cannot but also desire its means or order; because, to wish an end, and not, at the same time, to wish the means requisite to obtain it, would involve contradiction and inconsistency. And mark this point, that, when God acts, He does so freely, and not from necessity; and, as freely as He can wish an end, so freely can He wish its order also. For instance, if I wish to succour a starving man, I must give him bread and not stones; nevertheless, it is not because I do not give him stones, that I am less free in giving him bread. So it is with God, Who, desiring an end, wishes also the means adapted to attain it, and Who has made, at the same time, all things and the order in which they are placed. We may, therefore, conclude that things are not made by God because, in themselves, they are well ordered and good, but that they are good and well ordered, because God so willed it, His essence being the supreme rule of all the goodness, and justice, and congruity of things.

98. From this we may conclude that The Order through which God works is not the same as that which we have to follow. Because the reason, which the superior has to command, is different from the reason, which the subject has to obey; and if this were not true, the difference between the superior and the subject would be annihilated. We should then all be either equally superior or equally subject, each one having, in the fulfilment of his actions, the same reason and the same rule to follow. Hence, the rule or reason of the superior who commands, must be different from that of the subject who obeys; the measure, whereby the superior weighs his actions, is different from that whereby he calculates their goodness; and the measure of the subject is different from that whereby, in the fulfilment of the

law, he derives its goodness. Whatever agrees with the end towards which the subject is directed, is good for the superior, if the end be well ordered, and the means be within the limits of right reason; and whatever the subject wishes to do, in order to fulfil the superior's command, is good for the subject.* The goodness of the superior is found in the wisdom which he exercises, in order to find the means whereby to attain his end; and the goodness of the subject consists in his subjection to the laws of his superior. Now, if this different reason or rule may be found amongst men, how much more will it not be true in reference to God, Who has a supreme and absolute right over all mankind, and Who created man for the manifestation of His own extrinsic glory? Hence, we once more repeat that God has no order to follow, and that the course He follows is not the same as that which constitutes either the moral goodness or the moral badness of man's actions.

99. Though the Origin of our Duties lies in the Will of God, it does not follow that, in order to know them, we need Divine Revelation.—If the basis of the morality of our actions lies in the essence of God, and not in the essence or order of things, how can we know, except by a supernatural revelation, what is good, and what is evil? This is asked by those philosophers who think differently from us. We answer that we can detect it by means of human reason, and without Divine revelation; because, knowing that whatever is not God is a creation of His, we may well conclude that He alone is the Master of all things. This being admitted, we

* Be it observed that God cannot dispense man from everything, and permit what is of necessity intrinsically opposed to right reason; and therefore God, as Lord of all, could not bid me tell a lie to gain my end; because it does not rest with the arbitrary will of any superior, not even of God, to take indiscriminately any means to gain his end; but, for every definite good end, there are certain definite good means, and no others are admissible.

may easily deduce that,—though He, being Master, can either preserve or destroy His work, can either maintain or change that order which He has established among His creatures, and can wish every one to fulfil his part in that order to which he belongs, when there is nothing opposed to right reason,—yet, the same cannot be said of us His creatures. Hence, all things being made and thus disposed by God, it would be arrogance on our part, if, without His permission, we were not to follow the order established by Him. Reason tells us that God could not but forbid us to assume His mastership. Therefore, the physical order is the book wherein we may naturally learn the will of God and all His ordinances, which, as they produce our duties and cause things to be either morally good or morally evil, constitute the moral order. *Ergo*, to know what we have to do, and what to omit,—to understand moral good and moral evil,—we need no supernatural revelation, since human reason is able to learn it from the order of things.

100. Why is it that to hate God is, in itself, an evil thing?—The hatred of God, and many other actions, seem to have in themselves an internal evil; but it is not so, because all that they have in themselves is the impossibility that God could not but either command or forbid them, since God cannot contradict Himself. We cannot deny that—(the nature and relations of things always remaining the same)—some actions have, in themselves, and independently of the law, something which is unnatural. But unnatural does not mean immoral.* An unnatural thing is the opposite to an action with the natural and common instincts or moral sense. Still, it is not in the moral sense or instinct that the essence of morality is to be placed, because, in this sense, even the

* Though not all unnatural things are immoral, yet all unnatural things, that to a rational nature are unnatural, are immoral—*e.g.*, gluttony, which is an evil, because it is repugnant to human nature, &c.

actions of an animal might be unnatural ; for instance, if it were to destroy its offspring ; yet, this could not be imputed to an animal as a moral evil.

Neither can the intrinsic morality of an action be placed in that repugnance which, while performing some actions, man experiences ; because this repugnance may be the fruit either of education, or of etiquette, or of common sense. Moreover, neither good sense, nor common sense, nor the repugnance of our soul in doing a thing, is the rule of the morality of human actions. So, let us once more repeat that human reason cannot logically find either the intrinsic goodness or badness of our actions elsewhere than in the essence of God, Who, by commanding certain things, causes them to be good, and, by forbidding others, causes them to be evil. Hence, to hate God is intrinsically evil, because God cannot but command us to love and serve Him ; or rather, because it is so willed by Himself.

III. Sources of the Morality of Human Actions.

101. In order to form a right judgment of the morality of a human action, it is not sufficient to know its essence and rule. We must also understand how to compare it with the law, and we must see whether it agrees, or disagrees with it.

Moral philosophers sum up, under three heads, those things which concur to constitute an action either in harmony, or at variance with the law. These we call the sources of morality. They are,—(1.) the object of an action ; (2.) the circumstances which accompany it ; and (3.) the end for which man acts.

102. (1.) The object of an action.—By the object of an action, we mean all that constitutes the essence of the action itself, whereby the action belongs to a special species, and is comprehended in the meaning of the word which points it out. So, when we desire to pass our opinion on the morality of a theft, in its object, we

must compare the law with the fact which belongs to the specific nature of the theft, and this is conveyed to our mind by the word, *stealing*. Hence, to find the object of any action whatsoever, we have only to examine its nominal definition.

103. (2.) *Circumstances*.—By the word *circumstance*, we mean that quality, either absolute or relative, which exists in an action, without having any identification with, or participation in the essence or specific nature of the action itself. Or rather, by *circumstances*, we mean those accidental determinations, so called by metaphysicians, which, being found in the essence of things as well as of actions, distinguish or determine the individuals belonging to the same species. Thus, a theft, in its morality, may partake of different kinds of theft; it may be a simple theft, it may be fraud, plunder, piracy, burglary, embezzlement, abduction, kidnapping, assassination, smuggling, &c., all of which actions belong to the nature of theft, and yet, in virtue of the circumstances surrounding each of them, these acts of theft are specifically diverse from one another. In other words, every act of theft contains in itself the malice of theft, but it is modified by its special circumstances.

The circumstances which may concur to modify an action are, by philosophers, reduced to eight different species, which the reader may easily bear in mind, by the aid of the following Latin hexameter verse:—

Quis, quid, ubi, quā vi, quoties, cur, quomodo, quando.

Let us examine each term, in its true signification.

104. *Quis* (Who)?—By *quis*, is meant the quality or condition of the person who acts. Thus, for instance, if a beggar, through sheer necessity, steal £1, and a rich man also steal £1 from the same person, the theft of the rich man would be of greater malice, and, therefore, worthy of greater condemnation, than that of the beggar. Again, if a magistrate were to publicly perform a dis-

honest action, it would, on the ground of greater scandal, be more malicious and more censurable in him, than it would be in his subject. Consequently, the very same action may have either a greater or less degree of malice, by reason of the condition or quality of the person who performs the action.

105. *Quid* (What)?—By *quid*, we mean the quality, as well as the quantity, of the object in which the action is placed. Thus, for instance, it is a greater evil to steal five pounds than to steal only one; and it is worse to take it from a poor person than from one who is wealthy. Again, it is a greater evil to insult a superior than to insult an equal, &c.

106. *Ubi* (Where)?—This signifies the quality of the place where the action is performed. This place may be either sacred or profane, private or public. Hence, it would be a greater crime to fight in a church than in a theatre, and a less crime to slander in private than in public, &c.

107. *Qua vi* (By what means)?—These words denote the instruments which one makes use of to perform an action. The different means whereby an action is performed may, indeed, augment the malice of the same action. For example, if I rob either a superior, or an equal, or a friend who has confided to me his secrets, and told me where his money is kept, &c., my action would be far more malicious and detestable, than if I were to rob him, without his having reposed any confidence at all in me.

108. *Quoties* (How often)?—By this term, we mean the number of times that the same action has been separately performed. We say, separately performed, because, if the same evil action were protracted for a time, and repeated without any deliberation on the part of the will to desist from it, there would be only one evil action. On the contrary, if the action were to be deliberately interrupted, and afterwards wilfully repeated,

then, as there would be two imputable human acts, so there would be two separate evil deeds to be imputed to the agent.

109. *Cur (Why)*?—By this term, is meant the end for which an action is done. Thus, for instance, if I steal money to purchase a revolver wherewith to kill my friend, this is a greater evil than to steal for the purpose of purchasing the necessities of life. But, as we shall have occasion to comment on this point in another part of this treatise, let what we have said suffice for the present.

110. *Quomodo (How)*?—This signifies the manner in which an action is done. For instance, it would be a greater crime to put my friend to death by slow torture, than to kill him at one stroke.

111. *Quando (When)*?—This denotes the time when an action is performed. That which may be lawfully done on one day, may, on another, be prohibited. The time may tend also to modify the morality of our actions, in reference to our occupations or duties. Thus, for instance, if, in a fit of drunkenness, a man were to beat his mother, the malice of the action would not be so great as if he were to do it, when in a state of perfect sobriety.

Hence we perceive that the circumstances which accompany an action, may involve a substantial change in its morality, in three different ways—viz., either by altogether changing it, or by adding to it more malice, or by causing it to have a double morality. These circumstances are called by philosophers, **Speciem mutantes**, **Speciem aggravantes et attenuantes**, and **Speciem addentes**.

112. (a) Circumstances, **speciem mutantes**, are those which altogether change the morality of an action, causing it either, from being evil, to become good, or, from being good, to become evil, or, from being, in itself, indifferent, to become either good or evil. Thus, murder

is, in itself, evil; yet, if I kill my adversary when he is attempting to kill me, it is no longer evil.

113. (b) Circumstances, speciem aggravantes et attenuantes, are those which either increase or diminish the good or malice of an action, in its own species; or rather, which cause it, in reference to the law, to be either better or worse. For instance, the greater or less quantity of goods stolen does not change the malice of the theft, in its own nature, but it simply either intensifies or lessens its malice.

114. (c) Circumstances, speciem addentes, are those which cause an action that, in one sense, is either good or evil, to be, in another sense, the same. This signifies that, while a good or an evil is such, because of its conformity or non-conformity with a law, these circumstances cause the same good or evil to be likewise conformable either to another or to several laws.

115. **The End of an Action.**—This is the third head which under the morality of an action is investigated. By the end, we understand that, for the sake of which, one acts. This end, for which an agent acts, may also be named intention, not only because he must know the thing which he desires, but also because, knowing it, he directs his will towards it, exercises his activity for it, and aims at its acquisition, until he attains it. Speaking of free actions, what is said by philosophers is perfectly correct; their aim is first to be conceived, and lastly gained.

116. Every action has in itself an intrinsic end, which is styled: *Firstly*.—**Finis operis**, or the **End of an Action**.—The end is produced by the action itself, in its own nature and independently of the will of the agent. For instance, if I give an alms simply to gratify my vainglory, and not to help the poor, this alms will undoubtedly help the poor, although I give it for another end.

117. *Secondly*.—**Finis operantis**, or the **Aim of the**

Agent.—By this is signified the end which is freely willed by the agent. This end may be either the same as the intrinsic end of the action itself—*e.g.*, I give an alms simply to help the poor; or, it may be partially distinct—*e.g.*, I give money to help the poor, and, at the same time, to be esteemed as a benefactor. In this case, the aim of the agent is called the extrinsic end, or, simply speaking, the end of the agent. This may be divided into :—

118. *Thirdly.*—**Primary and Secondary Ends.**—It is a primary end, if the agent determines to act only for that end, and without which he would not act. For instance, if I give an alms to the poor, for vainglory alone, vainglory is the primary end of my deed; since, without it, I should not give the alms.

It is a secondary end, if the agent is determined to act, not absolutely in virtue of it, as though he would not act without it; but if he acts because it is inviting and stimulating. For instance, if I give an alms to help the poor, and do so because people will praise me, this praise is the secondary end of my deed; because, apart from the praise to be thereby earned, I would still help the poor.

119. *Fourthly.*—**The Proximate and Intermediate Ends.**—The former is that end which is immediately wished to be obtained by the agent through his action. The latter is that which is not, in itself, immediately willed by the subject, but which is, as it were, a medium whereby to obtain some other end. For instance, if I give a special alms to obtain a special favour, this special favour is the proximate, and the alms given, the intermediate end.

120. *Fifthly.*—The final end is that which is absolutely wished for, and to which the agent refers all the others, and which has no reference to any further end. This, not being a medium to another end, is the real aim for which the agent acts. To this all the others are

subordinate, as are the steps of a ladder to reach the summit. Having seen how the end of an action is divided, we may now lay down the following principles.

121. **The Human Act has always an End.**—Man, in all his actions, has some end in view; because it is undoubtedly the nature of a free agent, always to work for an end. In truth, freedom of action is nothing but the knowledge of the diverse means which lead to an end, and the power to choose among them, as one likes. But, if there were no end to be acquired, how could we choose the means to attain it. Therefore, since the human act is always a free act (as we proved, when speaking of the human act), it must necessarily be exercised for some special end.

122. **The Finis operantis influences or modifies the Morality of Human Acts.**—This statement is self-evident; for, whatever is done for a certain end, is wished or willed, inasmuch as it is a medium whereby to reach that end. Its election and its execution are inseparable from the wish to obtain it; it supposes this volition, and rests in it. Therefore, the act of volition will be either good or evil, so far as it either coincides with the will of God, or diverges from it. The end for which man works has its influence on the morality of a human action, of itself causing the action either to agree or to disagree with the law. Thus, a good end on the part of the agent may cause a thing, which is indifferent in itself, to become good; or, if already good, to become better; or, if already bad, to diminish its malice. On the contrary, a bad end may cause a thing, in itself indifferent, to become bad; and, if good in itself, to become evil; and, if already bad, to become worse.

123. **What is the end which Man should propose to himself, in order to act righteously?**—The end which man ought to propose to himself, and to which, in order to work righteously, all his actions must be directed, is the glorification of God; or rather, it is that

fidelity and obedience which man owes to God, for the acquisition of his own happiness—*i.e.*, his final end:—loving and serving God, in virtue of the absolute right which He has in Himself to be loved and served by His creatures. When man fully recognizes this absolute right, when he respects it, and holds it as the Supreme law of his actions, then all the means that he makes use of for the acquisition of his happiness are good and lawful in him. “Man! during thine existence here below, and in every one of thine actions, behold thy great end! Do all for the honour and glory of thy Supreme Master! This is the only absolute means of securing that happiness, for which thou dost so eagerly yearn !”

Some philosophers, by not weighing carefully the exact meaning of the Supreme Reason for which man ought to act, and of the final end for which he acts, say that to love God, in order to attain real happiness, is to constitute Him the medium whereby to arrive at that happiness. But this theory is false, because God, being the Object of perfect happiness, cannot be its medium. The true medium whereby to gain this happiness is the fulfilment or observance of the law of God; or, in other words, it is to serve Him. And, indeed, to love and serve God, in order to gain our own happiness, is the same thing as to recognize Him above every thing, on account of His infinite perfections and goodness in Himself. Hence, all the things that man makes use of to gain God, and in Him to attain perfect happiness, are the mediums of which we speak, and not God.

I 24. What is required to constitute an Honest End?—If the final end of our actions is our own happiness in God, through our obedience, and if, in our present condition, the love and service of God are, in substance, nothing else than obedience and submission unto Him, it follows that man will always act honestly, so long as he works according to God’s commands, avoiding what, either in itself or in its circumstances, is forbidden, and what is neither directly nor indirectly

opposed to the order established by God. Thus, if man wish to know whether his action be honest or not, he has only to compare it with the law, and see whether it be opposed to God's will, or not. If he finds it to be allowed, then, even though, at the moment, he may not think of doing it for the honour of God, his action is honest and good. For, as we have before demonstrated, the Will of God, being the standard of morality, and, therefore, the measure of the goodness or the badness of an action,—it follows that he who has in view what is honest naturally tends to God, and that, by wishing and doing what is honest, he, at the same time, respects the will of God.

125. **There are Moral Goods, and moral Evils, of different Species.**—The supreme reason of morality is only one, as the law of all human actions is, in substance, only one. Nevertheless, as this law may be divided into various precepts and laws of a different species, so the moral goodness and malice of human actions may also belong to different species, according either to their conformity, or nonconformity with the different species of laws and precepts. Thus, the malice of murder is specifically diverse from the malice of theft, &c.

126. **One Action of the same Species may have many Moralities of different Species.**—This contains the proof within itself; for one action of a certain kind may be opposed to one or more laws; and, as different laws contain different precepts, so one action may offend against the order of things which are themselves specifically diverse, as the same action may also have moralities of different kinds. Thus, if I tell a lie to ruin my friend, this lie will have different kinds of malice;—one in itself, as a pure lie; another against justice, by the ruin of my friend; and a third against charity, because I ought to love my friend.

127. **The same Action cannot be, at the same time, both Good and Evil.**—This truth was known to the ancient philosophers, who left us that great saying,—

Bonum ex integrâ causâ, malum ex quocumque defectu. If an action is, even in one single respect, opposed to the law, this action is bad, its volition and election not being subordinate to righteousness. When the election is malicious, the human act must necessarily be also malicious, whatever be the thing done in virtue of that election ; because the morality of an action, as we shall further see, resides thoroughly in the will of the agent, and not in the work or action performed. Although the giving of an alms is, in itself, a good thing, yet, when given as a medium whereby to entice the recipient from doing what is right, it becomes pernicious ; because, the volition being bad in reference to the law, the action also is evil.

Neither is it to be maintained that a good element, through the association of a bad one, cannot cease to be good ; for we do not here speak either of good or of evil in the abstract, but in the concrete. Now, a good thing or action, in the concrete, cannot be perfectly good, unless it is perfect in all its parts ; for, as a deaf man, though all his other organs are perfect, cannot be a perfect man, inasmuch as he is defective in one perfection ; so, one action may have many good moralities, but one evil quality inherent in it causes it to become malicious.

128. A Concrete Human Action cannot be Indifferent.—From the nature of morality, and from its sources, we still learn that, although there are actions which in their species are indifferent, because they are neither commanded nor forbidden, yet these very actions, when examined in the subject, cannot be indifferent,—*i.e.*, neither good nor bad,—because there is no human act which can be indifferent. A human action will, either in its subject, or object, or circumstances, or in the end of the agent, always be found either in conformity or nonconformity with the law, and, therefore, either good or bad.

In fact, man is obliged to examine before acting whether the end which he plans, and the object that he

wishes for, and the conditions which surround it, be in conformity with the law, or order, or Will of God. When everything is in conformity with the law, his action is morally good ; whereas, if he sees that everything is not in conformity with the law, his action is morally evil. We have said that a human act cannot be indifferent ; and this is quite true according to reason ; nevertheless, if the act is not human, but simply mechanical or spontaneous, then, with other philosophers, we admit that such actions may be indifferent. In order to prove it, simply recollect what we have said about the different kinds of acts, and you will find its reason.

In order to answer any objection against this doctrine, let the reader carefully study the following argument :— To do a moral good, it is not necessary that it should be done for subjection, but with subjection. Now, to act for any reasonable end, when duty is silent, is to act with subjection. The use of our free will, thus subjected, implicitly contains obedience to God, Whose Will we seek to do before our own ; it places His service and glory before our own will ; and, therefore, the action is, if not explicitly, at least implicitly, in the relation of conformity with the final and supreme reason of all human actions. Thus, you may see how a simple walk, in itself indifferent, may, in the subject, be either morally good, or morally bad.

IV. Imputability of Human Actions.

129. By imputation, we here mean,—to charge one as the author of a fact or action, or to attribute to him the good or evil wrought, together with the advantage or disadvantage resulting therefrom. This word is usually applicable to wicked actions only, yet it may also be used in reference to deeds, good and glorious. Imputability, therefore, is that property or condition of an act, whereby the action, with its effects, is attributed to some one as its real author. The conditions requisite for an action to be imputed are principally two :—(a) The action must

be done freely, because man can be master and author of his free acts only. (b) The action must be willed by the agent in all its extent, as well as in its effects. Thus, the effects of an action, which were neither known nor foreseen by the agent, cannot be imputed to him; because, although he was the physical cause of them, yet, not having been the elective cause, he had neither freedom nor volition in producing them, and he cannot, therefore, be responsible for them.

130. That which is foreseen by the Agent to proceed from a Free Action is imputable, even though not thoroughly foreseen.—When the subject knows that his action possesses certain qualities, and that from it certain effects will issue, then these effects will be imputed to him, because he acts freely, even though he may not desire the effects. For, by acting freely, he also indirectly wills those effects which may not please him, and his mental exclusion of them is a mere protestation of his not wishing to do a thing, which he really and freely does. This protestation is called in Latin, *Protestatio contra factum*.

In order that the effects resulting from an omission may be imputed to the man who omits the action, it is not sufficient simply to foresee them, but one must be compelled to do the action in order to impede them: because, as the simple omission of an action is not of itself able to produce those effects, the reason must be found in the agent; who, having the duty to perform the action, has also at the same time the duty to avoid those effects which would follow, if the action were not performed. What we have said about omission is also to be said of the effects produced by commission.

131. Is the Morality of these Effects imputed, when the Agent foresees, but does not comprehend them?—Though all the effects emanating either from the omission, or the commission of an action, are always imputed to the agent, as to their cause, even if he did not foresee them, yet the same cannot be said of their

morality. In order that the morality of an effect may be imputed to the agent, it must be seen how he stands with the law, which may either command, or forbid that effect. It might be possible for a man to be commanded either not to act, or to act with the motive of avoiding the evil effects which he foresees, but does not wish. Nevertheless, even in this case, the evil effects cannot be imputed to the agent, if he is compelled either by duty or by right to perform the action. For instance, the death of thousands of innocent people, occurring in consequence of a bombardment, cannot be imputed to the general of an army, for he acts according to the laws and rights of war.

132. When the Agent wishes to act against the Law, how does God impute to him his Moral Action? —Before answering this question, we must explain the difference which exists between doing good, and doing evil before God. To commit an evil before God, it is sufficient for the agent to know, that what he does is evil, even though he does not wish to do it; because he who acts against the will of his superior is guilty of disobedience, whether he likes disobeying him, or not.

On the contrary, to do good before God, one must not only know the goodness of his action, but he must also wish it—*i.e.*, he must wish either to do or to avoid it, simply because it is a moral good either to do it, or not to do it, as the case may be. For instance, he who does a thing, for some reason different from that which is commanded, does not obey God; nor does he perform that moral good which he would perform, by doing it because commanded. The deeds of a man, who for the sake of avarice leads a most temperate life, cannot be morally good in the sight of God, because they are performed from a motive which is not commanded. In other words, the agent must virtually know the morality of an action, and must implicitly desire it in this sense, that, without its morality, he would not act.

Assuming that the above is well understood, we say

that when man, either directly or indirectly,—*in se* or *in causa*,—acts against the law, he becomes guilty before God at the very moment when he wills the action, and not when it is performed and the evil result is produced. Nay, even though the evil action were not performed, he would be guilty, because evil before God is done, when one mentally wishes it. This may be most clearly shown, as follows :—

133. The External Act does not, of itself, add either Moral Goodness or Malice to the Internal Act wished for.—Man's will, and his will only, is that which causes a thing to be either good or bad before God ; so much so, that the external act cannot, of itself, add to the action either goodness, or malice. We say, of itself, because, *per accidens*, it might do so ; for instance, when it causes the will to be more determined in the volition of that good or evil. And, indeed, as man's will is a free faculty, the mistress of his act, and the ruler of all the other faculties subservient to it, his will alone is ruled by the law. Man's own actions are capable of morality, and for his own actions he is responsible ; because, as the heart is the immediate source of all kinds of affections, so the will is the immediate source of all kinds of righteousness.

This leads us to conclude that, when the will clings to a thing which is forbidden by the law, without the evil deed being performed or consummated, the volition becomes evil, and this evil is called by moralists, the Sin of Thought. Whenever there is consent to evil, there is sin of thought. Sins of thought are sins of the will, and they are differently named, according to the different relations of time in which the prohibited thing is to the act of the will, in wishing it. If the volition relates to the manner in which the deed is to be done, it takes the name of desire ; if it relates to the performance of the deed, it is styled delectation ; and, if it regards it as already done, it is termed complacency. Let us examine these terms minutely.

134. *First.*—**Sinful desire.**—By the word **desire**, we do not here signify that natural propensity whereby we are instinctively transported to the acquisition of a pleasing good, whose attainment is not altogether dependent upon the will, although it may either resist or desire it; for this natural tendency, which, in itself, is physically good, cannot in itself be wrong, not being in its nature a free action. But, by **desire**, we mean an act of the human will, whereby the subject proposes to do a forbidden action, when either the time, or the occasion, or the possibility of doing it, presents itself, or even if it is in the future. This, then, is what we call **sinful desire**, and by this we become guilty before God of that crime which we intend to perform, even though we perform it not.

This desire may be either **efficacious** or **inefficacious**. It is **efficacious**, when the desire is such as to cause the agent to leave no means untried, for the execution of the intended deed. On the other hand, it is **inefficacious**, when the subject wills the prohibited thing, but does not yet resolve to adopt all the necessary means to perform or attain the evil object of his will. Besides these two desires, there is another which is called—

135. **Conditional desire.**—When the evil is willed, even **inefficaciously**, it is always wrong before God, and it contains the very same malice as the action itself would contain, if performed. This has been already proved. But what is to be said if the evil be not absolutely, but only conditionally, willed;—for instance, if it were not an evil? In order to give a correct answer, we will carefully consider the following:—

If the condition is such as not to destroy the malice of the forbidden thing or action, then the volition, although conditional, is in itself wrong, and partakes of the same malice as the action would contain, even without any condition. Thus, for instance, if I have an enemy, and when thinking of him, I say to myself, “Had I a knife, and were nobody to see me, I would kill him,” this volition is in itself evil, notwithstanding the condi-

tion whereby I abstain from doing the injurious deed ; and, before God, I am guilty of a crime, whose malice is the same as though I really murdered my enemy.

But, if the condition is such as to destroy the entire malice inherent in the action, then it is no evil to desire the thing wished for, because volition and conditional desire are not in themselves wrong. In two distinct cases, we defend this statement against its opponents :—First, when the condition is possible to be verified ; secondly, when the condition can never be verified. Thus, for example, it would not be evil to entertain such thoughts as these :—“ If it were not Sunday, I would work to-day ; ” “ Were God to permit it, I would destroy my enemy ; ” “ If it were lawful, I would do this or that deed ; ” &c. The reason why the above volitions are not wrong is very simple, namely, because the conditional will is not placed in that object which is in itself wrong, but in that which would not be wrong, were the condition to be obtained. Hence, if the condition be impossible of fulfilment, the action will be always forbidden, and, therefore, it must never be either wished for, or done. Hence also, he, who wishes a thing with an impossible condition, implicitly signifies that he will never do it. But not to desire to do an evil thing is not wrong ; therefore, reader, you may arrive at your own conclusion.

136. *Second.*—**Delectation.**—As we have said above, delectation is that full complacency experienced in thinking of an action, as though we were really performing it. The mind, while contemplating the action, finds delight in it ; the will, though not deciding in reality to do it, nevertheless approves of it and dwells on it, elects and desires it. We must not confound this with simple instinct or passion, for we now speak of human, and not of sensual acts.

Now, by this kind of delectation, man commits an evil, if what he delights in is forbidden ; and its malice is just the same as though he were in reality accomplishing the evil ; because, in this case, the will of man

elects and admits a prohibited thing ; but to elect a prohibited thing is to act against the law ; and to act against the law is in itself evil, independently of the external action ; *ergo*.

But, if the object of delectation is a quality which is not in itself wrong, although it belongs to an evil thing, that delectation is not evil. Thus, it is not evil if a man rejoices at the skilful and clever way in which a pick-pocket has robbed his friend, because he rejoices at a thing which is not in itself evil. But, if he rejoices, simply because the man who is robbed is an object of his dislike, he commits evil. The reason of this is very clear, for the will rejoices at a thing which is both evil in itself and which is also forbidden.

137. *Third.*—Complacency.—This, as we before noticed, refers to things previously done, which, recurring to the mind of the agent, so delight his will that he approves of, and confirms, them. Now, if these things, or actions, be evil, the delight experienced in them will contain the same malice as it had, when the actions were performed. Thus, if I delight in a murder which I committed twenty years ago, this delight is an approval of the evil deed, and, in the sight of God, I am guilty of a new crime having the same malice as it had, when it was first committed.

What we say concerning complacency is likewise to be said of that non-complacency, or disapprobation, which is entertained when an evil deed has not been committed, owing to some particular circumstances, or when one has not been able to commit it. On the contrary, to rejoice on account of a good, which was the consequence of an evil deed, is not sinful, because that good is not, *in se*, an evil.

138. Hesitation, or Perplexity between Good and Evil.—The person who hesitates between choosing good and avoiding evil, acts against the law ; because, in presence of a command, perplexity or indecision, either about fulfilling or disobeying it, is just the same as either

doubt, or denial, of the right which the superior has to command. But this indifference shows disrespect, which is wrong. Hence, to hesitate between good and evil signifies to act against the law, which exacts promptitude in the fulfilment of what it either commands or forbids.

This theory is applicable only to those cases in which the hesitation is (*a*) in reference to the object itself, either as commanded, or forbidden; (*b*) in reference to duty, formally taken; (*c*) in reference to the thing itself, considered in its morality. Because, if the hesitation were in reference to the object materially understood, the latter being wished, inasmuch as it is delightful, and not wished, inasmuch as it is forbidden, then it would not be against the law, there being no hesitation between wishing and not wishing the fulfilment of God's command, but rather a hesitation between a delightful good which is desired, and a moral evil which is declined. For instance, a servant sees his master's money, which he could steal without any fear of being discovered. He hesitates whether to take it or not; the money would be useful to him, yet he does not wish to take it, because to do so would be wrong. In this case, not being able to separate the utility which he wishes from the malice of the action which he does not wish, he remains undecided, not so as to reject the malice of the action, but rather so as either to elect or to reject the action itself, which is, at the same time, both useful and bad. But this is not to hesitate before moral evil alone, nor deliberately to resist the law. Therefore, his hesitation would not be sinful. On the other hand, were he only to consider the moral evil, without any reference to utility, and were he to be undecided whether to do it, or not, this hesitation would be sinful, because he would be undecided whether to obey God, or not. We have already proved that such hesitation is an act of insubordination and disobedience to the law. *Ergo.—*

139. Imputability of the Actions of others.—From what has been said on this subject, it is clear that the

action of one person may be imputed also to another. A bad action performed by John may be imputed also to James, if the latter either directly or indirectly approve of it, or will it. So, if James should, freely and knowingly, will all that is efficacious to influence John to perform an evil action, the former would be guilty of the same crime as the latter, because, morally, he drags John into it.

Moral influence over the actions of others may be exercised by counsel, command, example, approbation, help, silence, &c. The evil deed of one person may be imputed to another, even by the omission of that which might have impeded the evil deed. Thus, if I omit to correct a child when he needs it,—if I do not denounce him to his superior,—or if I do not teach him his duties, &c., I indirectly connive at his evil deeds.

Nevertheless, to judge correctly either of the merit or the crime, which one may share with another, let the reader remember what has been said in reference to the imputability of that which is foreseen to happen, either from an action or an omission, and of the morality of the effects produced.

I40. Causes which impede the Imputability of a Human action.—Generally speaking, an action, when it is willed, must be imputed either to the agent, or to some other party. It is as necessary that the action should be willed, as that it should not be imputed without volition. Hence, the imputability of an action is destroyed, so far as volition in the subject is destroyed.

Now, the causes, which render volition to be non-volition, are four—viz., violence, fear, concupiscence, and ignorance. The first two affect the subject, *ab extrinseco*; the other two, *ab intreseco*—*i.e.*, from within the subject himself. As they either destroy, or diminish volition, so they either destroy, or diminish the moral imputability of those actions performed through one or more of the above causes.

I41. I. Violence.—Violence or coercion is the act of an

extrinsic force, so powerful as to overcome the resistance of him who is under its influence, and to compel him either to do, or to omit, what he does not wish.

Violence is divided into perfect, and imperfect violence. It is perfect, when the subject, with all his might, resists the extrinsic force. It is imperfect, when he does not, with all his power, resist the action of the extrinsic force.

142. Perfect Violence destroys Volition, and Imperfect Violence only diminishes it.—When violence is perfect and absolute, we cannot charge the person who suffers it with the deed or action which he performs; because his action, not being a free and deliberate one, is not human; for he neither elects it, nor consents to it. Therefore, the effect of this action, performed under perfect violence, cannot be imputed to him, but to others, if the violence be a moral violence.

On the contrary, when violence is imperfect, that which is caused by the extrinsic force is to be imputed to the agent also; and the action will be more or less imputable, in proportion to his greater or less resistance. In this respect, the effect produced is a human act, because of its being indirectly willed, and, consequently, imputable.

143. Violence cannot affect those Acts which are termed Eliciti.—From the definition of violence, it is relevant that the will cannot be absolutely forced or constrained, it being an impossibility for a man to cause me to will that which I do not wish. And, were I to will that which I did not before will, then my will would not be forced, but changed. Thus, an elicit act cannot be a constrained act.

144. II. Fear and its Divisions.—Fear is thus defined in Latin:—"Trepidatio mentis, causa instantis vel futuri periculi;"—"A trepidation of the mind, on account of an evil either present or to come." The probability of the evil feared constitutes danger. The gravity of the evil, together with the

great probability of incurring it, constitutes the gravity of the danger. Hence, fear is divided into great, and slight fear. When the danger is either great, or considered as such, the fear is called grave. But, if the danger is small, the fear produced is slight. The former may produce great perturbation of mind, even so far as to take away from the subject the exercise of attention and deliberation in his action, and, consequently, also his will. The latter produces less perturbation of mind in the subject, so that he still perceives what he is doing, although confusedly. Fear may be produced either from a natural cause, which may be intrinsic or extrinsic,—or from a free cause, which may be just or unjust. Again, fear may be either absolutely or relatively grave. It is absolutely grave, if in reality it is so. But, were it not so in reality, but simply in the mind of the subject, it would then be relatively grave—*e.g.*, the noise of a rat in a solitary room might frighten a timid woman out of her wits. We shall now make some applications of fear, in reference to human actions.

145. **The Influence of Fear on the Morality of Human Actions.**—Grave fear, on account of the great perturbation which it works in the mind of the subject, whether it is absolutely or relatively grave, may destroy the will; and, consequently, the morality of the action could not be imputed to the subject. Slight fear, on the contrary, only diminishes the power of volition; and thus, what is done under its influence will be more or less imputable, in proportion to the greater or less advertence of the mind.

Grave fear, caused by the gravity of a danger, does not destroy volition of itself, neither does it lessen it; nay, it increases it: and so, what is performed under its influence is imputable to the subject. Nevertheless, if, in consequence of it, a person acts against a law which commands, but not *sub gravi incommodo*, the malice of the action would not, in virtue of that grave fear, be imputed; because, under this circumstance, the law

would not oblige ; and, if there be no obligation, there can be no morality. On the other hand, that fear which is objectively slight does not take away the malice from the action, but only lessens it ; unless the law were not to oblige when there might be the slightest inconvenience to the subject.

Moreover, no kind of fear, which is not a motive for doing the action, but which only accompanies it, has any influence on the morality of the action, because it does not influence the will in its election. In this case, we might say that the action is done with fear, but not in consequence of fear.

146. III.—Concupiscence.—By the word concupiscence, we mean that excitation of the appetizing faculties, whereby the mind of the agent, being in a state of perturbation, cannot properly reflect, and, so, acts spontaneously or instinctively. Concupiscence is divided into antecedent and consequent.

147. Antecedent concupiscence is that vehement desire which, even against our will, is inflamed within us, for the acquisition of an alluring good, either morally or physically present to our mind.

148. It is called consequent, if it proceeds from the will ; because the subject, feeling in himself this concupiscence, either strives to augment it, or, without a just motive, does what is calculated to excite it. If a man knows, that, when under the influence of drink, he is inclined to fight, and drinks in order to fight, there exists consequent concupiscence.

Both antecedent and consequent concupiscence may be so powerful as to destroy free will in the subject ; and this would be styled grave concupiscence, to distinguish it from slight concupiscence, which causes only perturbation of mind, and does not destroy free will.

149. Does concupiscence take away the Imputability of an Action ?—The antecedent concupiscence takes away responsibility, when it is so grave as to amount to temporary insanity, the will being destroyed. On the

contrary, the same concupiscence, when it is only slight, does not take away, but simply diminishes, the imputability of the action, and causes it to be less, in direct proportion as it lessens its volition.

150. Consequent concupiscence, whether grave or slight, will never take away the imputability of the action caused by it; for, being either directly or indirectly willed in itself, the foreseen action which it produces is also willed.

151. IV. Ignorance, in its wide sense, means want of knowledge. But here we signify that want of knowledge which one ought to possess. Ignorance, in reference to its object which is ignored, is divided into ignorance of right, and ignorance of fact.

152. Ignorance of right is that, whereby one knows not the existence of a law, and, therefore, does not know that the law either commands or forbids such and such a thing;—e.g., if a man marries a woman whom he knows to be his kindred in the third degree, but knows not that there is a law forbidding marriage in that degree, his ignorance is ignorance of right.

153. Ignorance of fact is that, whereby a man does not know the nature of the thing which he wishes to do; or rather, whereby, though informed of the existence of the law, he is ignorant that such and such an action is either commanded or prohibited by the law. For instance, if a man, knowing that there is a law forbidding marriage in the third degree of relationship, marries a woman in that degree, not knowing that she is his relative, there would be ignorance of fact.

Ignorance, in reference to the will of the subject, is subdivided into antecedent, consequent, and concomitant.

154. The antecedent is that which is not willed, and which causes the subject to wish for what he would not have desired, had he not been ignorant. Thus, if I go to London, and meet with an accident, surely I should not have gone, had I known that the accident would happen.

155. The consequent is that ignorance, which is either directly, or indirectly willed. Thus, if I suspect that, by going to London I may meet with an accident, and, notwithstanding, I go, and really meet with it, this would be consequent ignorance.

156. The concomitant is that which, whether it be willed or not willed, is yet not the motive of the action. This arises when the subject, not understanding the true nature of what he does, is so disposed that he would equally do it, were he to know it; for example, if I strike John who is my enemy, thinking that he is James who is not my enemy, and do not repent when I discover that I have really struck John.

Moreover, ignorance, in reference to the intellect, may be divided into *vincible*, and *invincible* ignorance.

157. *Vincible* ignorance is that, which, by diligent inquiry into a matter, may be overcome. Hence, in a certain sense, this ignorance is willed, and it may correspond with consequent ignorance.

158. *Invincible* ignorance is that, which, even after the most diligent inquiry, cannot be overcome. This ignorance is not willed, therefore it corresponds with antecedent ignorance.

Vincible ignorance may be subdivided into *gross*, and *affected* ignorance. *Gross* ignorance exists when a person, though wishing to know something, either takes no trouble to learn it, or does not care to know the truth.

Affected ignorance exists when one directly wishes not to know a thing, in order to act more freely and independently.

159. Can Ignorance influence the Morality of Actions?—Yes: ignorance can influence the morality of actions, and, from the definition which we have given of the different species of ignorance, we may draw the following conclusions. They will be found very useful in practical philosophy.

I. Antecedent ignorance is invincible, and, therefore,

as its effects are not willed, they cannot be imputed to the subject. For instance, if, in this ignorance, I shoot my friend who is concealed behind a bush, thinking that I am shooting a wild animal, this action could not be imputed to me, because I would never knowingly have killed my friend.

II. That which is the result of concomitant ignorance, which is invincible, is not to be imputed, because, when the action was being performed, it was not willed. For, either merit or demerit is contracted by that which is positively willed, and not by that which one would have willed, after the action was performed.

III. Consequent vincible ignorance, being willed in itself, does not take away the imputability of that which is done under its influence. Its imputability will be more or less, in proportion to the greater or less knowledge foreseen in the effect produced by the action.

IV. Pure vincible ignorance frequently lessens the imputability of the action ; gross ignorance, very little ; and affected ignorance, not at all. Nay, affected ignorance often increases the imputability of the action, and, at the same time, increases the volition of acting against the law, in a more sensible and pleasing way.

V. The evil produced by invincible ignorance is imputed before men, when the evil is performed. On the contrary, it is imputed before God, when the subject foresees the evil and wills it, even though he do not perform it. The following is the real criterion whereby, in the performance of our duties, we must judge of our actions before God. Are we neglecting to learn our duties, or to acquire that knowledge which is relatively necessary, in order to discharge the duties of the state in which we are placed ?

Having so far investigated man's duty in its various relations to law and to human acts, it is expedient now to examine it in relation to his moral law, which is his own conscience.

CHAPTER VIII.

DUTY AND ITS RELATIONS TO MAN'S CONSCIENCE.

160. The existence of a moral law, to which man ought to conform his actions, is an undeniable truth ; for it is a belief beyond doubt that there is a God, Who is the Creator of all, Who has established the order of things, and Who wills that this order be maintained. Thus, the morality of human actions is also a truth and a fact, independent of the opinions of men that some of these actions should be either good or evil ; that they are in relation to the Will of God ; and that some are either in conformity or nonconformity with the law, in which relation their morality consists. This true and real relation of an action to the law is what we call the material or objective goodness or malice of some action.

This objective morality must be distinguished from that morality which comes *ex objecto*. By the former, we mean the morality which an action has, or may have, either in its object, in its circumstance, or in its end, whereby it either may, or may not, conform to the law. By the latter—viz., *ex objecto*—we mean that true and real morality of an action which exists, on account of the true and real relation of all its heads to the law. In simple words, it is that which must, in its object, in its circumstance, and in its end, agree with the law in *toto*. This being understood, we say :—

161. Man ought to find out this Morality.—Before acting, man ought to investigate the objective morality of the action which he intends to perform. He should see how it agrees in all its points with the law, and do his best to know God's will, in order that his action may be in conformity with it. This duty is the immediate

consequence of man's dependence upon God, and from it God Himself could not dispense him. In virtue of this dependence, man is obliged to look beforehand for the Will of God in everything that he does, as in it his dependence resides. To depend on somebody in acting, really means to have in him the reason of one's action. But man has not the reason of his actions from God, as though he were compelled to act by force, like a machine or an automaton. Not being a mere animal, he has not this reason in God by necessary tendencies, or instincts. But rather, he has it in God, inasmuch as he sees it in Him, and, when it is recognized, it serves man as a motive for his actions, because God created him a free and intelligent being. Therefore to be dependent, as he is, man ought to take the reason of his actions from God. In order to take it, he must necessarily know it, and to know it, he must investigate it. Hence, he is compelled to find, in the best way, and by the best means, the real morality of his actions. Not to do this, would be exactly the same as to be independent. But we have proved that man is absolutely dependent ; therefore, let the reader use his own judgment, and draw his own conclusion.

162. **Formal or Subjective Morality of an Action.**—The formal or subjective goodness of an action consists in the conformity existing between the human act, and the firm persuasion which the agent has to act according to the law. On the contrary, the opposition to his persuasion either to act, or not to act in accordance with the law, constitutes the formal or subjective malice of his action.

Now, the persuasion which an agent has of the formal morality of his action is what is better known under the name of conscience. So, the relation of man's actions to his conscience is what constitutes the formal or subjective goodness or malice of his actions. Conscience, therefore, being in a general sense the measure of our

actions may justly be termed the proximate rule of human acts.

163. The same Action may be Subjectively Good, and Objectively Bad, and vice versa.—The relation of an act to man's conscience—*i.e.*, to the persuasion which man has to act according to the law—is, as we have said, that which constitutes the formal or subjective goodness of the action. But man, although his judgments and convictions be most prudently formed, is not infallible. In some special cases he might think that some actions are commanded which are in fact forbidden; and *vice versa*, that some are forbidden which are really commanded. Hence, if such were his persuasion, and if he were to act under its influence, his action would be formally or subjectively good, and materially or objectively bad. For instance, if I be convinced that I am allowed to take a false oath, or that I must take it in order to save a man's life, my action would be formally good in saving an innocent person from death; but it would at the same time be materially evil, because nobody is allowed to take a false oath to save the life of another. It is not even permitted to utter a simple falsehood for that purpose. Thus is clearly shown how the same action may, at the same time, be subjectively good, and objectively bad.

In order to judge rightly of the morality of human actions in reference either to merit or demerit before God, it is a matter of vital importance to thoroughly understand this present subject. Therefore, let us learn what conscience is, and consider its nature, its division, and its influence on human acts.

164. Conscience and its Division.—Before defining conscience, we must make some special and useful remarks. Some philosophers have misunderstood the real meaning of conscience, and have maintained that man has within himself a special faculty whereby to judge of the morality of his actions. This faculty has been styled,

moral sense. But, if by it they meant something different from synderesis, this moral sense was purely an invention. By synderesis, we mean the habitual knowledge of those principles from which the morality of actions is deduced, and the judgment which is formed, in virtue of those principles, either by ourselves or by others.

In virtue of this judgment, it happens that, by doing what is honest, we feel that calm which arises within us, and which we call the testimony of a good conscience. On the other hand, by doing what is dishonest, we experience an internal pang, and a disturbance, which we call remorse. Now, if this approbation or disapprobation is developed in all human beings, it proves that all possess a degree of intelligence whereby they judge of the goodness or the malice of their actions ; and this is what we call good or common sense.

In order to explain these facts, there is no need of moral sense, as a faculty distinct from reason. For this moral sense could not be the proximate rule of human actions, as it would lead to innumerable errors. In virtue of this moral sense, man might be prevented from fulfilling his duties, even in cases wherein life and death are at stake. For example, if I were a physician and, through some repugnance, were to omit an operation necessary to arrest death, should I fulfil my duty if, on account of this moral sense, I were to omit the operation ? Owing to this moral sense, any one might be prompted to do what he might like best, thinking it to be the real Will of God, though it certainly be not His Will. For the same reason, we have to reprove many immoral customs of past ages, which arose from men allowing their feelings to have supremacy over their reason. History tells us of some people who were permitted by law to kill their aged parents, in order to spare them the trials and sufferings attendant upon a decrepit old age. Let the heart with its gentle affections stimulate the will to act. Certainly. But never let it be the rule of our actions.

Sense, repugnance, tendencies, and natural feelings, are always blind faculties, requiring another faculty for their guidance and direction. This faculty is reason, and to this faculty belongs the decision, as to when and how far we may follow our feelings or moral sense. Reason alone ought to decide the morality of human actions, and it alone must find out all the means necessary to know the truth and to follow it. Reason alone must detect the criterion of certainty, and decide whether our judgments are right or wrong. In fine, reason alone is the immediate or proximate rule of all we have to do or to omit, because it is the light which God has enkindled within us, whereby each human being has his own distinct personality, and becomes responsible for all his actions.

165. **Conscience.**—The knowledge which man by his own reason acquires respecting the morality of his actions, under certain circumstances, or for a stated end, is, in its universality, a moral knowledge. But when the same knowledge is viewed in its individuality, or in the individual, it takes the name of conscience; and this is defined,—a practical judgment of the morality of human actions. We call it a practical judgment, because through it we apply our ideas or universal principles to the principles of science. Conscience has always for its object the universality to the individuality, or to an individual case; and, therefore, it is the practical science of practical things. So, this practical judgment, which is styled conscience, is a judgment where-with, from universal principles or general conclusions, we affirm that the individual act which we intend to perform is good or evil,—commanded or forbidden,—and, therefore, that it is to be done, or not to be done. Let us then understand what conscience is, when we say that it is the proximate rule of the morality of human acts. We shall here notice its various species.

166. *First.*—**Antecedent and Consequent.**—Antecedent conscience is that which forms a practical judg-

ment, in reference to the morality of an action before it is performed. Consequent conscience, on the contrary, is that which forms a practical judgment when the action is done. Thus, any one may perceive that only the former can have an influence on the action's morality, and, consequently, that it alone can be its proximate rule.

167. *Second.*—Right or Good,—and False or Evil Conscience.—The antecedent conscience, on account of the different way in which it is formed, is right or good, when the judgment concerning the morality of the action is rightly formed ; and, false or evil, when the judgment is wrongly formed.

168. *Third.*—True and Erroneous Conscience.—Owing to the different relation between a thought and its real object, the conscience is true, if the judgment is true ; that is to say, if what one judges to be, or not to be, in conformity with the law, is really so. Whereas, it is an erroneous conscience, if our judgment is contrary to the truth itself ; or, if that which we think and judge to be in conformity with the law, is not so. This kind of conscience may still be divided into vincible and invincible ; vincible, if the judgment be caused by vincible, or vineable consequent ignorance ; invincible, if caused by invincible, or invincible antecedent ignorance.

169. *Fourth.*—Certain, Probable, and Doubtful Conscience.—Conscience is certain, when the judgment formed in reference to the morality of the action is made without any fear of erring. It is probable, when the same judgment is formed with the fear of erring. Lastly, it is doubtful, if, either by lack of reasons, or by an equilibrium of reasons, one cannot determine either the goodness or the badness of the action to be performed, and if he thus remains undecided.

170. Doubt is either Negative or Positive.—It is negative, when there are no reasons whereby to form a judgment. This corresponds to ignorance. It is positive, when, on account of the equilibrium of reasons for

the goodness or the badness of the action, the judgment is suspended. When doubt is positive, the two parts between which the judgment is suspended are called,—parts equally probable. But if one of the two parts surpasses the other, and if the assent of the agent inclines towards it, so as to perform the action, one is called more probable, and the other, less probable.

171. *Fifth.*—Fearful or Timorous, Scrupulous, Lax, and Perplexed Conscience.—We call a conscience fearful or timorous, when the agent, in all his actions, and even in those of little importance, most diligently seeks their morality, in order to conform himself in everything to the Will of God.

Conscience is called scrupulous, when the agent fears lest, even in the smallest things, he may do evil, or when, without sufficient reason, he deems an action to be evil. To be unreasonably anxious constitutes scruple.

On the contrary, a conscience is lax, when the agent, for some slight reason, judges a thing to be lawful, which is really unlawful; and when he considers to be a very little evil, that which is a great evil.

Lastly, conscience is said to be perplexed, when the agent deems to be evil both opposite parts on which he has to decide, and when, at the same time, he must necessarily elect one of the two evils. Besides these various species of conscience, there are others which, for our present purpose, need not be touched upon. We will add two special remarks which are of great importance in practical philosophy.

172. *First.*—Right Conscience must not be confused with true Conscience.—The rectitude or goodness of conscience consists in the correlation of the formed judgment with that which one considers to be good or evil. Hence, when the agent is fully convinced that his action is lawful, though in reality it is not so, his conscience is right, but not true; and, *vice versa*, if the true judgment is wrongly formed, a conscience may be

true, but not right. Thus, for instance, if I am a magistrate, and, without examining why I should condemn a guilty man, do condemn him, my action is that of a true conscience, but not of a right one. It is true, because the man is guilty ; but it is not right, because I should have investigated and carefully examined the facts, which I did not.

173. *Second.*—Doubt may be either Speculative, or Practical.—We call it speculative doubt, if the judgment remains suspended concerning the agreement or the disagreement of the act, in its species, circumstances, and end, with the law. It is practical doubt, if, when the action is being performed, one is still uncertain whether the action is lawful or not. From this it appears that, unless there be speculative doubt, practical doubt cannot exist.

174. *Man's Duty is to follow his own Conscience.*—Conscience is, as we have said, the rule of human actions, so firm, and so inexorable, that it is impossible for an action, done in conformity with it, to be bad, and for another, performed against it, to be good. No authority, either human or divine, could destroy this truth. A competent authority may indeed change his commands ; he may change the objective morality of actions ; he may cause to be lawful that which is unlawful ; and *vice versa*. By doing so, he may also change our persuasion ; but he can never cause to become evil, that which one judges to be good, nor to become good, that which one deems to be evil, although it may, in itself, be not evil.

This statement contains the proof in itself ; for no man, by doing a thing or not, is either morally good or morally bad ; but rather, he is morally good or bad for doing or omitting the thing, because it is commanded or forbidden by God, and because he views it in that form which causes it to be good or evil—namely, in accordance with his own conscience. Therefore, man is either good or bad, and does either formal good or formal evil, accordingly as he acts conscientiously or not.

Thus, the formal good or malice of a human action is not to be placed in the real agreement or disagreement of the action with the law, but it must depend upon the judgment of the agent who, in order to be obedient to God, wishes to act according to the law, even though, erroneously, he were to act against the law.

175. Is he justified who acts under an Erroneous or False Conscience?—He who acts under an erroneous or false conscience, believing that he acts according to the law, performs a good action, even though the action be either indifferent or evil. On the contrary, he who acts under an erroneous conscience, believing that what he does is against the law, performs an evil action, even if the action is not forbidden,—nay, even if the action is commanded. The reason of this is, that an erroneous conscience, when invincibly erroneous, is to be held as a true conscience; but he who acts with a true conscience fulfils the law: *Ergo.*

We say, when invincibly erroneous, because, if the erroneous conscience is vincibly erroneous, it is evil to act either according to it, or against it; because it is man's duty to find out the truth as to whether the action is forbidden, or commanded. In this case, the error is willed, and he who wills error cannot be excused. Again, if the conscience is simply vincibly erroneous, it is wrong to act either according to it, or against it, when the subject does a prohibited action which he considers to be good and honest. In this case, his ignorance is culpable, causing the action to be also culpable.

176. What is to be said of a Man who doubts whether the Action is Lawful or Unlawful?—When a person doubts about the honesty of an action, he cannot lawfully perform it, unless he lay aside his doubt, and feel morally certain that the action is honest. If a person were to doubt whether a thing be commanded or forbidden, and if, under this influence, he were to choose either to perform or not to perform it, his action would

be evil, because, when acting, he must know whether what he aims at be lawful, or not. Nevertheless, it is not requisite that he should resolve the speculative doubt concerning the honesty of the action, but it is quite requisite to resolve the practical doubt, so as to become certain of its formal honesty. Were he not to do this, his action would have the same malice as he suspected to be inherent in the action. Because, if I wish to do a thing, with the idea that it is forbidden, my action is evil; since even though the law does not forbid it, I deliberately wish to act against the law. Now, this perfect disobedience is a formal transgression of the law, even though the law be not in existence. Consequently, he who acts with a doubtful practical conscience regarding the morality of his action, is guilty of an evil action. In order to act prudently, let us consider the following:

177. Conditions required to form a true Practical Conscience, when there is a Speculative Doubt.—The following rules are laid down:—

First.—A man must use great diligence in learning the truth, with reference to the objective honesty of what he intends to do; because, man's duty being to follow and to do God's Will in all his actions, he must, in order to comply with it, discover the truth in the best way possible.

Second.—It is necessary that the doubt should exist, only in reference to the honesty of the action; or rather, in reference to the right of doing it, and probably also in reference to the matter of fact, but not to the value of the action for the end intended by the agent, nor in reference to the danger which it might cause either to himself, or to others. Because, if the doubt were to exist with regard to the value of the action or its consequences, as the law is certain and still binding as to the omission of a harmful action, a person, before acting, should ascertain the truth itself; and, if he do not find it, he should follow that part wherein the danger is least. In

these cases, we may apply the principle: *In dubiis, tutior pars est eligenda*;—in doubtful things, one must choose the safest.

Third.—When the law is doubtful, and the doubt is in reference to the matter of right, one must discover whether liberty is possessing, or law is possessing. In these cases, the reason of possession, is of great importance. When liberty possesses the action, the doubtful law does not oblige. But when the action belongs to law, then, even in doubt, the obligation of the law still exists. Liberty is in possession, when the existence of a law cannot be ascertained. On the other hand, law is in possession, when, though its existence be known, there are, nevertheless, doubts as to whether the same law be still in force. We know that, in the logical order, liberty is anterior to law; but, in the chronological order, man and law exist at the same time. When liberty is anterior to law, man has the moral faculty either to do, or not to do, a thing; and, until he is lawfully deprived of it, he enjoys it; and the mere doubt that there may be a law in opposition to him is not sufficient to deprive him of liberty. On the contrary, if the law is appointed, and if a doubt arises whether the law be still in vigour, or its obligation be already fulfilled, in this case the law obliges the fulfilment of the action, until it is perfectly known that the law no longer exists, or that its obligation has been fulfilled. Nevertheless, this general conclusion admits of some exceptions. For instance, when I am aware that I have fulfilled the law, but doubt whether I fulfilled it in the manner in which the law prescribes its fulfilment, I have no further obligation to comply with it again; because, in this case, we may apply another principle,—viz., *Omne factum præsumitur recte factum*: an action is presumed to be rightly performed, until the contrary is proved.

178. What is to be said of that which is done, with the simple probability concerning the Objective Morality of an Action?—What we have said about

doubt, may be referred and applied here to one who finds himself between two contrary opinions equally probable, because two dissimilar opinions of equal cogency cannot but produce in him a proximate doubt ; and, if he be in doubt, he must act according to the rules which we have laid down in the preceding section.

But, when the two opposite opinions are not equally probable,—*i.e.*, when one opinion is in favour of the law, or of its obligation, and the other in favour of a desire, to do a thing or not, the case is different. Of these two opinions, the one is more, and the other less probable. The difference of probability between the two opinions may be either very little, or great, or very great, and to such an extent as to approach certainty, and to render the contrary opinion most improbable.

Hence, we lay down the following rules :—

(a) When there is practical probability, or even when there is only a slight fear that the action is formally evil, it is not lawful to act ; because, before acting, we must have a moral certainty that the action is honest, and that God does not forbid it. This may be known to us either by direct conscience, or by principles.

(b) When the probability refers to the matter of fact, we ought generally to follow the safer part, be it either more or less probable than its contrary opinion.

(c) When the probability is in reference to the matter of right, one may follow the part which stands for the law, though it be less probable. Nevertheless, if the opposite opinion which stands for liberty be far more probable than the one which stands for the law, the agent may, in such a case, follow his liberty, because he would act according to truth and justice. We say, far more probable, because, if it were only a little more probable, we should follow that which stands for the law.

179. What ought we to say of the Man who has either a Scrupulous, or Lax, or Perplexed Conscience ? —As regards the man who is under the influence either of

a scrupulous, or lax conscience, in reference to the judgment which he forms either about doing, or not doing an action, we may apply all that we have said in reference to conscience. The only difference is, that either a scrupulous, or a lax conscience contains an additional disposition which more or less influences the observance of duties, and exhibits in itself a moral infirmity which should be practically cured, rather than theoretically discussed.

Lastly, the man who has a perplexed conscience ought to examine which of the two opinions is the more probable; and, if he be unable to decide, he will commit no evil in following either the one, or the other.

CHAPTER IX.

DUTY IN REFERENCE TO MERIT AND DEMERIT.

180. **Important Axiom.**—Man, in his nature, is subordinate to God. This Eternal Being, Who created man for an end, could not but give him a manner of acting, a nature, an operation, and a life, as a determined means to a determined end. However, God did not necessarily command him, for He created him physically free, and lord of his own actions. Still, by manifesting to him His Will, in which resides the reason of human actions, as well as their rule, God commands him morally in a determined way of acting. Now, this Will of God being manifest to man, God could not remain indifferent as to its fulfilment. If there were this indifference on the part of God, it would imply in Him a desire, and, at the same time, no desire that man should fulfil His Holy Will. But this is an impossibility and a contradiction.

Now, if God cannot be indifferent in reference to what He commands, it follows that both the fulfilment of the law, and its transgression, will affect God's wisdom

and will. But this different effect cannot affect God, for He is an Eternal Being, infinite and immutable in His own essence, impassible in His nature, indefectible in His glory, and imperturbable in His perfect bliss. Whatever the effect might be, it would always be found on the side of man, who, either by fulfilling, or by transgressing the law, modifies himself differently, according to the diverse species of his action. The different species of his action, the form, and the different quality which he assumes, in the sense here meant, form the different relations to the law, in agreeing or not agreeing with the Will of God, and in His approbation or disapprobation. Hence, man, being the author of different actions, acquires a form, a species, and a quality, whereby he is placed in different relation to the Will of God, which causes man to receive from Him either approbation or disapprobation. This kind of mutation, or transformation, which we speak of, is in general produced by man, without slightest change in the Will of God being admitted.

Man does not only produce this mutation, but he is entirely responsible for it. God, Who created man for Himself, is always pleased with His work, and He continually finds in it the means adapted to the end for which He made it. Man, by placing Himself in opposition to God's Will, only gives God a reason for causing man to serve His end in a different way. God does that only which is to His purpose, and nobody can interfere with His work. Hence, as the diverse way in which man serves God for His last end,—either in fulfilling, or in violating the law,—causes him to deserve either reward or pain, both of which are either the remote, or the immediate effects of the fulfilment, or the non-fulfilment of our duties; so, the immediate effect is the reason which we give to God, by our action,—good or evil,—either for rewarding, or for punishing us. The reason which causes God to reward our actions is termed merit; and the reason which causes Him to punish our actions is termed demerit.

181. **Merit and its Division.**—Merit may be defined as the force which an action possesses ; or, as a reason which it gives to the agent, wherefore others should have a liking for him, and do him good. Either on account of the different force which an action may have to influence others in favour of the agent, or on account of the different kinds of reason which it gives him to obtain a retribution, merit may be divided into merit of justice, and merit of congruence.

That right is called merit of justice, which the agent acquires on account of his good action, and whereby others should reward him, in proportion to the value of the action performed. This reward is justly due to him, and it could not, without breaking the laws of commutative justice, be denied him.

That reason or motive, on account of which the agent expects from others some recompense, either for reciprocation of love, or because the laws of gratitude demand a return, is called merit of congruence. This is what is really meant by merit ; because the merit of justice is rather a contract than anything else, and it may be comprehended in these words, *Facio ut des.* “I do a thing in order that you may repay me.” Let the reader also bear in mind that what is promised by another cannot be merited, as many philosophers would have us believe ; since the reason for having that which is promised proceeds from the law of fidelity, and not from the law of justice. Still, we may merit, *de congruo*, what God promises.

182. **What is meant by Just Reward and Distributive Justice ?**—If, strictly speaking, there are no merits of justice, there is, nevertheless, a law which regulates due rewards, or a rule which is their measure, and without which, according to that justice which is called *justitia distributiva*, a reward could not be just. This *justitia distributiva* consists in maintaining a just proportion between merit and reward. Even though an action may not deserve recompense of justice, but only

of simple convenience, still, when once a recompense is due, it must be due in a manner proportionate to the reason why it is due. Gifts and graces, which have no reason but the will of the donor, are always just, in whatever proportion they are taken ; because they always correspond with the will of the donor, who is perfectly free to do as he likes. But rewards are granted, because they are due by the law of congruity. Hence, to be just, they must correspond with this law. This law of congruity is also the just measure of the just reward, because an act is just, when it corresponds with that reason which moves and directs it.

If merit varies with the variation of congruity, which is more or less in proportion to the effort or sacrifice made on behalf of others, the reward ought also to vary, in proportion to the merit ; otherwise, the bestower of the reward would not follow the reason of justice. Hence, a single merit ought to have a single recompense ; double merit, a double recompense ; and so forth.

According to this proportion of justice, God rewards the intelligent being ; because God, in His essence, follows the dictates of true reason alone. And, in this sense, we say that we expect from Him a righteous recompense for all our good actions.

183. **The Conditions required, in order that an Action may be Meritorious.**—All philosophers agree that, whether we speak of merit of justice, or of congruity, the conditions requisite for an action to be meritorious are the following :—

First.—The act must be free, and imputable to the subject ; because no one can gain merit for that which he does not do, or for what is not dependent on him.

Second.—The act ought to be performed on behalf of the person from whom one wishes to obtain merit ; because no one would be disposed to reward, unless he were interested in that which is done on his behalf.

Third.—The act ought not to be done from the motive

of a contract, or transaction, or in consequence of either ; because he who does a thing, for the purpose of obtaining a fee, performs the action on his own behalf, and not on behalf of another. No actions, which fail to comply with these three conditions, can be meritorious.

184. Every act, which is morally good, is also meritorious in reference to God ; because a good moral act, being a free act, and done for the love and service of God, fulfils the above-mentioned conditions. Although our actions are due to God, this does not prevent them from being meritorious ; because they are not due in consequence of a transaction, but in consequence of the right which God has to exact from man conformity with His Will, and respect for His commands. To act for this reason, is to act in obedience to Him, and for love of Him. Therefore, these actions must be meritorious.

185. Is it Meritorious to observe the Law, simply to obtain a Reward ?—By reward, we mean either a good, or a good which is not God, or a good which is God. Now, to fulfil the law, simply to obtain a reward which is not God, we may safely say, could not be meritorious ; because, in doing this, man would act only for himself, and not for the love and respect due to God. But to act for one's self is not to act in behalf of another from whom we expect to merit. *Ergo.*—

Whereas to fulfil the law, for the motive of obtaining a reward which is God Himself, we admit to be meritorious ; because, in this respect, we act for the sake of obedience, and duty, and for the love of God. To act in this way is to do God's Will, and to obey Him. *Ergo*, such actions must be meritorious. And, indeed, to act for the love of God, or for His glory, does not mean to superadd to His glory, or to His happiness, but rather to show Him our esteem, respect, veneration, and worship, whereby we are prompted to act for His sake, recognizing Him above everything. Hence, he who, on this account—

viz., to possess God—fulfils the law, renders his actions meritorious.

It seems to us that there could be no other way to merit than this, because there is no other way to bring together, or to reconcile these truths—viz., that man ought to love God above everything, and that he cannot determine himself to act, except for the acquisition of a good. If to look forward to the perfect good which he expects, and to work for it by subjecting his will to God's Will, were sufficient to destroy the merit of his actions, then, in order to do good, man should change his natural tendencies—*i.e.*, his nature. But this is absurd. Therefore, to work for the acquisition of God is meritorious.

Moreover, God is a most perfect Being, whether we consider Him in reference to our intellect, which contemplates Him, and sees in Him an infinite truth, or whether we consider Him in reference to our will, which loves Him, and satiates itself in Him as the infinite and most perfect good. Now, our intellect and will are not ordained to see simply a nonentity, and to love emptiness and deficiency, but to see and to love that which is a real entity. Hence, the more perfect an object is, the more true and good it is in reference to us. All that is in conformity with the intellect is true, and all that is in conformity with the will, to satiate its tendency, is good ; and all that which is, but which does not satiate the will, cannot be good, even though it be indefinite. Therefore it follows that, if God is the supreme and infinite good, He is so in reference to us, because, above every other thing, He is in conformity with our will, and can fully satiate it. Thus, to love Him as the infinite good, is to love in Him, substantially, the object of our own felicity. This felicity or bliss is a natural want of man, and the end of all his actions. The object capable of producing this happiness is the object of man's will. This he always seeks, and for no other purpose than to obtain that happiness after which he so eagerly yearns.

So long, therefore, as the nature of man is what it now is, there can be no other way of meriting than this; and it will be by acting accordingly, that we shall merit from God that future bliss, for the attainment of which, we were created.

186. What is meant by Demerit?—That action which is done in opposition to the Will of God, and which is considered as being a defection from the true and right rule of acting, is called deviation or digression. This very action, inasmuch as it is bereft of that relative quality which it should have in order to be good, is called sin, or mortal evil. Again, if considered in its opposition to the Will of God, it takes the name of disobedience. And lastly, if considered as the cause of God's reproof and punishment of us, it is named guilt, crime, or demerit.

It might seem that the above words bear a different meaning, yet, in substance, they all signify the same thing, and, therefore, we may use them indifferently to express the same idea. For, whosoever deviates from the law of God is disobedient, works for evil, and is a sinner. And, in proportion to the evil which he commits, or according to the gravity of the evil done, he is guilty before God. Guilt and demerit always stand in direct proportion to the malice of the action, and also in proportion to the merited chastisement which is to be inflicted, according to the laws of retributive justice; for that reason which we adduced when speaking of merit.

187. In order to know on what conditions the subject demerits, we have only to examine the conditions requisite to cause a human act to be evil, and its malice to be imputable to the agent. This we have already shown, when treating of the imputability of human actions. In simple words, in order to demerit, it is sufficient that the agent foresee the malice of the action, and that it be freely performed, even though the agent

wish not that malice, or though there be no malice in the action.

188. **Difference between Great and Slight Crime.**—Although every guilt is contracted by acting in opposition to the Divine commands ; nevertheless, the guilt may be more or less grave, in proportion to the action being more or less commanded. We know that God created everything for the same end, and that to this effect He placed all things in a certain order, and distinct from one another ; and that, although some things are subordinate to others, yet all are serving for the same end. This subordination of things forms, as it were, a ladder on which some stand higher than others. Those things which are higher, stand in an order superior to the others, according to the more or less proximate subordination to the end ; thus having, in reference to it, a different value or importance. If so, reason tells us that God must wish them in a different way, as they are more or less commanded by Him, according to their importance. If God can impose on man a grave obligation to do a thing, even of very small importance (because it is sufficient that God should only wish it), a matter of little importance at once becomes, in the moral order, of very great importance ; thus, it is also true that God may, with more or less rigour, exact that which He demands.

Now, that which God, through the natural law, either commands or forbids, is comprehended in this general principle or precept :—**Keep the order established in all things.** From this general command is deduced either the command, or the prohibition of things in particular. Now, these commanded, or prohibited special things have not the same importance in the universal order. Therefore, they are more or less strictly commanded, in proportion to their importance. Hence, we see the difference between greater or less guilt, when we violate the order established by God. That perfect order of things, which we have to observe, may be compared to a simple straight

line. God does not absolutely expect weak human beings to walk on this simple line without tottering. If we deliberately go astray from this line, we lose our way and wander from God, having lost His friendship ; and this is what we call a great crime ; and, by theologians, it is termed mortal sin. But if, when walking on this line, we stagger hither and thither, or deviate from it by making false steps, without, however, leaving the line, then, by these wilful stumbles, we cease to move strictly on the line ; and such stumbles are imperfections which, although not fatal, slightly displease God, but are not sufficient to break His friendship. These imperfections are called by us small sins ; and, by theologians, venial sins.

189. A Crime may be either Great or Slight in its Object, as well as in its Accidentalitv.—The malice of an action, as well as its guilt, is in itself either great or slight, when the action, taken in its species or object, is to a greater or less extent, opposed to the law. A crime which is very slight in its object may become either great, or very great, according to the circumstances, or the end of the agent. For instance, to tell a small falsehood is not a great crime ; yet, if I were to tell a lie through contempt of God, or of the law, such a lie would constitute a great crime, owing to the malicious end existing in my mind.

Again, a crime, which in its object is very great, on account of its great deviation from the law, may become very slight, in view of the circumstances or end of the agent. Thus, if, through an erroneous conscience, or an imperfect will, or through ignorance, I were to do a thing which, in itself, is a very great crime, its gravity would be lessened on account of the erroneous conscience, or the ignorance, or the imperfect will, wherewith the crime was perpetrated.

Nevertheless all forbidden actions cannot be lessened in their objective malice ; for there are some so essential to the established order of things, and so directly in-

jurious to man's formal dependence on God, as to be in themselves grave evils. Such, for instance, are blasphemy, contempt of the law, &c. Hence, those actions whose malice may be lessened are called great evils, but not in the whole species ; and those actions whose malice cannot be lessened are termed great evils in the whole of their species. Theft, for example, belongs to the first category ; because, although theft is, in its species, a great evil, it may, nevertheless, be a very small crime—*e.g.*, the theft of a pin.

190. **A Great Crime** cannot be formed of many **Slight Ones**.—This statement is true, if we speak of those actions which, in all points, contain only slight malice, and cause only slight guilt ; and which, although again and again repeated, could never constitute great crime. Such are the actions whose matter and effect are morally separate, and cannot be morally united. Thus, if I tell a lie to-day, and another to-morrow, and so on,—these lies are separate ; they cannot be morally joined together, for they are independent of one another; therefore, these lies will have a distinct guilt and malice, each deserving a separate chastisement. Hence, to be, time after time, a little disobedient would never constitute an act of grave disobedience, nor ever deserve that punishment which is due to such disobedience.

191. **Many Slight Crimes** may constitute a **Great Crime**.—This is also true, if we speak of those actions which, on account of the smallness of the matter, possess only slight guilt, but whose effects can either physically, or morally, unite together. In this case, the last act, whereby the matter becomes grave, is of itself a grave crime, apart from the guilt of the preceding actions ; because, by wishing this last evil, one desires the transgression of the law *in materia gravi*. *Ergo*, for example, if I steal an object of small value with the idea of committing no greater theft, I am guilty of only a small crime ; but if, afterwards, I steal a similar object

again and again, so as to cause a grave loss to my neighbour, then I commit a great crime. This crime is not caused by the previous guilt contracted by each commission of theft, but rather by the additional matter subsequently stolen. Thus, a robber will be responsible before God for the guilt of the first theft, of the second, of the third, &c.; and finally, for the demerit of the last, which constituted his action a great crime.

192. Specific distinction of Crimes.—The difference which we have made between a great and a small crime is called a theological distinction; because the action is here considered directly in its reference to God, and because it exhibits the relation which exists between God and man. But, if the action is considered directly in reference to law, and if it exhibits its relation to the morality of the action, then the distinction which we make of crimes, owing to their different malice, is styled specific distinction; because it divides them in their different moral species, which are those whereby we distinguish action from action, in the various species of immorality.

The different moral malice of actions, and, consequently, the specific distinction of crimes or sins, are deduced either from the law, specifically different, to which the action is opposed, or from the specifically different way in which the action is opposed to the same law.

193. Numerical Distinction of Crimes.—God created man, and gave him a law which morally binds him until the end of his earthly career, even though the man be an Atheist; or though, being a Theist, he were to say: “I will not serve God.” This rebellious act would not be sufficient to deliver him from God’s law, so as without impunity to do whatever he might wish. Man, whether he likes it or not, is always dependent on God. God’s law will always remain the same, because, as the first transgression is imputable, so will the second and the third be, in constant succession. There is no deficiency on the

part of God's Will, in punishing in proportion to crimes, as there is no deficiency, in rewarding in proportion to merit. Consequently, that principle, which many erroneously hold, that to break the law once is the same as to break it a thousand times, is wrong. But, as crimes, and therefore demerits, can be distinguished by reason of their diverse theological gravity, and moral species, so can they also be numerically distinguished. They may be multiplied in number, carrying with them the inherent multiplication of malice; and, according to their increase, there will also be an increase of punishment due to each separate crime; because God is just, and the dictates of justice demand that justice be done.

The way to number sins, and the reason why one sin numerically differs from another, are deduced from two heads.

First.—From the different acts of the will. One may dwell for a long time, and without any interruption, on the wish to do an evil deed; this duration of time might indeed augment the malice of the action, but it would never multiply the action itself. On the contrary, if the evil desired before is for awhile no longer desired, and then desired again, this second desire, being morally disunited from the first, causes the same action to be a second sin of the same species as the first, and so on.

To judge of the moral interruption of the will, in the sense we mean, is somewhat difficult. However, it appears logical that the acts, called *elicti* and *imperati* internal, cause a moral interruption of the will, when the act ceases; and the subject, by again desiring it, commits another crime. For instance—"I hate John from my very heart, and, for an hour, I meditate on revenge. For awhile, however, I think no more about him; but, next morning, on looking in the album, I find his portrait; this causes me again to indulge in my previous feelings of hatred and revenge." Enough: I have committed two

distinct sins of the same species, because both evil wishes are morally disunited from each other. But if we speak of external acts, the will, whereby we perform the act, is morally distinct from the will, whereby we perform a subsequent act, which, although belonging to the same species, is yet, in its number, not the same; and so, there is a numerical distinction of sins. For instance: "if I kill three persons with three successive shots, I am guilty of three distinct murders. But if, while wishing to kill only one, I kill three persons with one shot, then it is disputed among philosophers whether there are three crimes, or only one."

Still, if we speak of external actions whose execution requires a number of acts physically distinct, but all requisite to obtain the desired end, these actions are not separate or numerical sins, but they all unite to form one single sin; because the will elects them all, for one principal object. They may, indeed, augment the malice of the crime, but they cannot multiply it. In other words, except by interruption of the evil desired, the evil actions of the will cannot be increased. This interruption happens (*a*) by a contrary act of the same will; (*b*) by cessation of the act, when we resolve not to do it again; (*c*) by so long an interval of time as will clearly show that the second act is not a continuation of the first.

Second. The numerical distinction of sin or crime is taken from the different malice which the same action may, in itself, possess. He who, by the same action, deviates from three laws specifically distinct, is guilty of three sins.

194. **Sins of Thought, Word, and Deed.**—In whatever way an action is opposed to the law, it is always evil. But we may act contrary to the law, either in our own mind, or in word, or in deed. Therefore, an evil act, whether of thought, or word, or deed, is still a sin.

195. **What a Theological Crime is.**—All the demerits that man, by his evil actions, contracts, are de-

merits before God ; for they all proceed from the transgression of the moral law, which is the Will of God ; and, consequently, they are all theological crimes. Nevertheless, some philosophers have striven to discover in human actions a formal evil which is not in reference to God, and which may be committed by those who invincibly ignore the law of God. This they call philosophical sin, and it consists in the opposition of the actions to reason, and to the natural order.

According to us, the existence of such philosophical sin is merely chimerical. For, without God, there exists neither duty, nor transgression of the law, and, consequently, there can exist no sin. How can a man act against his reason and the natural order, when, God being ignored, he has for his actions no natural reason, which, if he admitted the existence of God, he would have ? How can there exist a natural order to be followed, if it has no ruler ? Either on the possible, or impossible hypothesis that God be absolutely ignored, man would, in some of his actions, know that he works in opposition to the universal persuasion of mankind, and also against his own sentiments. But why should he pursue the universal sentiment rather than his own ? Has he not a greater right to follow his own views than to adopt those of others ?

What is the meaning of these sounding phrases—“duties of society,” and “duties of mutual love, based upon the maxims of a general opinion?” Of what avail would these sonorous words be, to regulate human actions, and to sacrifice the will of one person to that of another ? They would all be to no purpose ; for, so long as human passions and interest remain dormant, those words sound very well indeed. But no sooner are passions and interest aroused in the breast of man, than the stirring and sounding thrill of those words becomes still, and loses its force, and is unable to rule and guide man’s actions. Therefore, let it again be repeated that such a thing as

philosophical sin is delusive, imaginary, and non-existent. If man be prompted to sacrifice his will, he can do it only for God's sake; because from Him he expects his final reward. However, in the case of invincible ignorance of God's existence, this kind of philosophical sin is possible.

Now, before concluding the theoretical part of moral philosophy, it remains to consider the important relation which exists between man's duties, and his passions and habits. Of these we shall treat in the following chapter.

CHAPTER X.

DUTY IN REFERENCE TO MAN'S PASSIONS AND HABITS.

196. In reference to the practice of their duties, men do not always act in the same manner. Even when they possess the freedom of acting, they feel themselves more or less disposed to do that which is prescribed by the law. These different dispositions, more or less common to all human beings, may be the result of Nature itself, and they are called passions; or they may be the result of a contracted habit, and, in this sense, they are called moral habits.

In general, the habit of doing a thing consists in that facility with which a person performs an action, and which is acquired by the repeated performance of it. When the habit is formed, there arises a permanent disposition, which Nature itself will prompt, to do the same action over and over again. Hence, a moral habit is looked upon as a second nature. When these moral habits are dispositions to do moral good, they are called virtues; but, when to commit evil, they are named vices.

Passions, virtues, and vices, may greatly influence the morality of human actions, and, consequently, may vary the duty, merit, and demerit, in performing an action. Speaking

of vices, which, in particular, may be so various as inwardly to cause new dispositions, we may say that they are, in general, mixed with the natural tendencies; and thus, they may be indiscriminately styled passions or vices: though one may have strong passions, and yet be free from vice.

197. **The Instinct and the Appetizing Faculties, with their Division.**—Man, as a created being, is necessarily finite and imperfect. Whether it be in consequence of his limitation and imperfection, or in virtue of the Divine disposition, the fact is that he feels himself insufficient for himself. He is always tending towards something that may better his condition. He is ever craving, because he feels a want. This natural tendency towards that which he thinks will satisfy him is called instinct; and the earnest longing to possess a much desired object is called appetite. The instinct is, as it were, the faculty whereby he tends to that which is useful, and shrinks from that which is useless and injurious. Whereas, the appetite is the result of the activity of the faculty, and is the actual spur, caused by instinct, to acquire whatever one deems sufficient to supply his want. Nevertheless, in morals, instinct and appetite signify the same thing, and may be indifferently used.

The instincts to which man is subject may be reduced to three; or rather, the wants which give rise to his natural yearnings, and from which his various appetites spring, are three. The first is the instinct of self-preservation and happiness. The second is the instinct of self-production or generation. The third is the instinct of self-greatness and excellence. The first and second are common to all beings, rational and irrational. The third is common to human beings only, because they alone can desire dignity, honour, wealth, &c.

Moreover, the appetites which man experiences, are again divided into sensual and rational. The sensual appetite is that which affects the physical senses, and it exists in virtue of the animal instinct. The rational

appetite is that, whereby man aspires to things comprehended by reason, and by which he is influenced to love them, in virtue of the instinct proper to his own nature. Such is the love of glory, of honours, of dignity, &c. We call it rational, not because it is always according to the dictates of reason, but because a rational being only is capable of experiencing it.

198. **Human Passions.**—All the instinctive appetites may be called passions, because, in every one of them, man is passive rather than active. Man, considered as such, when he acts, does so freely. Only of that which depends on his will, and which freely proceeds from him, can he be called the efficient principle or author. Those things which do not depend upon his will cannot be imputed to him, for, although, physically speaking, he himself may be the subject of them, he cannot, however, be called the subject of attribution. These actions may be called natural, rather than human actions. He, as a person, feels them in his nature, and suffers and supports them, although, because he does not perform them of his own accord or determination, they are not his. In this sense, he is passive in regard to them, and not active. Again, if others were to produce in him these effects, he would still be passive, when he in no way co-operates.

Although man be passive in all his appetites, still, under the name of passions, we ought to understand an appetite or tendency stronger than usual, a spur more pungent, an excitement more vivid, and a motion more vehement, than that which is caused simply by Nature. To speak more clearly, it would be of little consequence to use indiscriminately the terms, natural tendency, instinct, appetite, and passion, provided it were understood that not always, nor in all men, do they possess the same force.

199. **Concupiscence and Irascibility.**—Man, being naturally disposed always, and in everything, to seek his own happiness, naturally loves all that is useful for

that end, and hates whatever is injurious to it. Under this aspect, his passions, which in themselves are but self-love, may all be classed under these two heads,—concupiscence and irascibility.

To concupiscence belong all those appetites which inflame the heart, and allure the will, to procure whatever may bring to us happiness or pleasure.

To the irascible appetite belong all those motions of passion which also, though in a different way, inflame the heart, and excite us to regret, to abandon, and to destroy, that which is opposed to our happiness, and which displeases us.

200. **Further Distinction of Passions.**—On account of the different instincts from which passions proceed, some, if they arise solely from the animal instinct, are low, sensual, or base; and others, if they proceed from the human instinct, take the name of **human** passions.

Again, these may be sub-divided into carnal concupiscence, cupidity, and pride, accordingly as they proceed from the instinct either of self-reproduction, of self-preservation, or of self-esteem. All excitement to do evil arises from these passions, and, under the names of the flesh, the world, and the devil, they are styled the three great external enemies of man.

201. **The Seven Capital Vices.**—The disordinate affections of man may still further be classified under the heads of seven capital sins, which may be the result of the above mentioned passions. They are pride, covetousness, lust, anger, gluttony, envy, and sloth. They are called capital vices, because they are the head, or source, from which all other crimes take their rise.

202. **Pride** is a disorderly appetite for our own excellence, from which proceed self-esteem, contempt for others, the desire of honours, and similar disorderly affections.

203. **Covetousness** is a disorderly love of worldly goods, a great desire for hoarding them up, and the

cause of a depraved wish to keep them, rather than to make use of them for our own good.

204. Lust is a disorderly propensity to sensual pleasures, connected with self-reproduction.

205. Anger is an excessive disposition to wrath, from which proceeds an inordinate tendency to impatience and vengeance.

206. Gluttony is the indulgence of an inordinate appetite for food and drink.

207. Envy is that uneasiness, or repining at another's good, physical or moral, which we harbour because our own advantage seems thereby to be lessened. This is the offspring of pride.

208. Sloth is a sluggish indolence, which makes us rather wish to omit our duty, than to do ourselves the violence necessary to perform it.

The evil which may be committed through these vices we shall further consider, when treating of Practical Philosophy.

209. Passions are not, in themselves, Evil, nor do they cause the Subject under their Influence to be Wicked.—This is so, because passions are natural, and he who never experiences either repugnance or appetite, with regard to what is either commanded or forbidden, can never be capable of truly virtuous actions. Nevertheless, if we say that passions may be indirectly evil, on account of the greater danger which they cause of transgressing the law, we may also say that they are indirectly good, because they warn us to observe the law with greater efforts. Nay, on account of the difficulty, which, in consequence of them, has to be surmounted in order to fulfil the law, they render our actions more meritorious before God.

He who acts, simply because he likes the law's commands, only pleases himself, as he is not moved by that reason which causes our actions to be subjectively good. On the contrary, he who resolutely struggles and fights

against his passions in order to obey God, causes his action to be all the more pleasing and meritorious; because, to do God's Will, he renounces what appears to be a greater pleasure; and, consequently, greater is the sacrifice of his will, and greater his obedience, in which the whole moral goodness resides.

210. **We ought to check the Irregular Motions of our Passions.**—It is far better to do less good than a little evil; hence, man cannot be indifferent regarding the motions of his passions. He ought positively to resist them when aroused within himself. He ought to strive against them, as prudence dictates, and as strength permits, in order that, by resisting and overcoming their vehemence, he may keep the law. He, who acts not thus, will not be able to avert the danger of transgressing the law; and, by courting the danger, he will indirectly will the transgression of the law. *Ergo*, he must check them. He ought even to mortify his passions, because, by so doing, he wards off evil, and improves in good.

Moreover, when man does all he can to overcome his passions, and, nevertheless, fails to curb them, the evil actions done under their influence are greatly reduced in malice. Thus, we have the distinction between sins of human frailty, and sins of ignorance, which again are diametrically opposite to sins of pure malice.

On Virtues.

211. Virtue, in its general sense, may have many meanings. It may be an active quality, or power, as strength, or force. It may be used to express chastity, or honesty. In our sense, it is used to signify moral excellence, or uprightness. Before we come to the knowledge of it, let us lay down a principle of great importance for the acquisition of virtue. It is as follows:—

212. **Necessity of Moral Education.**—We have seen

that man's habits and instincts lead him to satisfy his wants and appetites, which also excite him to attain the same object. But man, besides satisfying these wants, has likewise an order to be observed. This order is made known to him by reason, and commanded by conscience. To this order he ought to conform his whole life ; and it is this order, experienced by human instinct, which is considered disagreeable and unpleasant, but which, in the light of reason, appears beautiful and useful. Instinct seeks only that which pleases ; but neither convenience nor pleasure constitutes order. That would be a curious law which should prescribe only what one might most prefer. To act according to law, we must sacrifice self-will, and keep the order established in all things.

The exigencies of law are always in opposition to those of instinct and passion ; and the voice of reason is often-times totally opposed to the affections of the heart. Both heart and reason strive and vie with each other to rule man's actions. The heart, without any effort, displays its activity in every man ; whereas, to succeed in the same task, great efforts are needed by reason. To learn what pleases us, we need no school, for a child may become vicious without a master. On the other hand, to learn the path of duty, we need a guide and master. This we say even of the most intelligent human being, who, by himself, would find the greatest difficulty in discovering it. Hence follows the absolute necessity of moral education. For this purpose, the Author of Nature gave to every human being the power of speech, in order that truth might be communicated by father to son. God communicated to man a complete paternity, ordering that man should reproduce himself. He gave him not only the necessary power of generation and nutrition, but also the faculty of speech, whereby he might educate and instruct his children, develop their intelligence, and cause them to live a human life, which is the

life of intellect, through the knowledge of truth. Now, all the knowledge that a child acquires from the teaching of others, and all those habits and inclinations which it forms through others, constitute what is called education. The force of a good education imparted to children by their parents is of unspeakable utility; that old saying being almost always correct,—“The customs or habits of a man are such as were formed in him by others.”

213. **Moral Virtues in their Generality and Specificity.**—By moral virtues, we here mean those dispositions which one possesses to do moral good, and which are acquired by the repetition of acts that are morally good, and whose motives are the sentiment of duty, and the fulfilment of the law; for it is only by these acts that a man contracts the habit of doing moral good, as such, and that he takes honesty as the motive of his actions. The will learns to love it, and, in this love, consists moral virtue. In this sense, there is a wide difference between education and moral virtue; for virtue always includes the idea of honesty and goodness, whereas a bad education may produce dishonesty and wickedness.

As the supreme reason of doing moral good is but one, and the law is one; and as this law may be divided into many different precepts, specifically different, but all tending to maintain the universal order; so, moral virtue may be either general, or special, as is also the law. We call it moral virtue in its genus, if the acquired disposition to do moral good proceeds from the habit of doing everything for the supreme reason that constitutes moral good. Such virtue consists in respecting the Will of God, in always conforming ourselves to it, and in keeping the order of things. Again, it is a moral virtue in its species, if the disposition be to observe some special law; provided it consist in the love and respect felt for some special moral object, or in the rejection of that particular disorder, whereby the thing

is forbidden. Thus, a person may have a special virtue in reference to a moral object, and still have no virtue in reference to another special object.

Virtue, in its genus, is comprehended in the word, obedience ; but, in its species, it assumes different names from the different honesty of the objects, which are specifically diverse. The special nature of every duty being once known, its object also is manifest ; and, consequently, the particular nature of the virtue which prompts us to observe it is likewise revealed.

214. **Man ought to acquire Moral Virtues.**—Moral virtues are not indifferent, but they are all most useful ; and, therefore, man is bound to acquire them. He is differently obliged, according to the gravity of the object of every virtue. Man should not only do what God bids him, but he must also be ready to do it in the best and most pleasing way possible, keeping aloof from any danger of disobedience. This he may attain by the acquisition of the moral virtues.

Moreover, such acquisition most prominently shows forth the moral perfection of man ; because moral virtues, being moral dispositions to do good, are always the consequence of morally good acts, and the proof of all that man has already done, and still continues to do, in order to keep the order of things. They are, as it were, a continual operation of moral good, because moral good, which formally consists in the election of that which God has commanded, is continually elected by the virtuous man, although it is not materially accomplished by him. His mind, being turned to moral good, and being accompanied by his good habits, frequently thinks of it, and, contemplating, desires it. But, before God, to desire it is the same as to do it.

Therefore, moral virtues do not only show forth the goodness of man either in what he has done, or in what he still may do, but also in what he continually does ; not only in the merits which he has, and which he may

further attain, but also in those which he is constantly acquiring. These virtues perfect him in his moral principle, and steadfastly lead him to respect and follow the order of things, as well as the moral principle.

215. **Division of Virtues.**—All the virtues that can form the dowry of a created being may be reduced to three distinct sources. Some have direct reference to God; some, to created things; and others, to the intellect. Hence they are divided into theological, cardinal, and intellectual virtues. We shall here view them in order.

216. I. **Theological Virtues.**—Theological virtues are those which have God for their object. They are the dispositions which direct our minds immediately to God, and which are increased by those acts which have God for their immediate object. These, directly, and not immediately, together tend to the practice of all the moral duties. They are three—viz., **Faith**, **Hope**, and **Charity**.

First.—Revealed theology not being our object, we mean, by **Faith**, that firm persuasion which man ought to have not only of the existence of a Supreme Being, the Creator of all things, the rewarder of the good, and the punisher of the wicked; but also of His infinite perfections, which cannot logically be separated from this Eternal Being.*

Secondly.—By **Hope**, we mean that firm confidence, which the mercy and the infinite perfections of this Eternal Being bring home to us, of one day possessing Him as the centre of perfect happiness, by keeping the order established by Him in all things.

Thirdly.—By **Charity**, we signify the Love of God, and that continual panting after Him, as after a fountain, by which our thirst can be satiated.

These virtues, or moral dispositions to good, besides

* See note 3, at the end of this chapter.

being in themselves a duty, because of their close union with the profession of truth, and with the inward worship due to God, are of indescribable utility for the maintenance of the whole moral system. They produce the cardinal virtues, and dispose us to fulfil our duties with exactness and perseverance ; and, therefore, man ought to possess them.

217. II. Cardinal Virtues.—Moral virtues may be reduced to four, which are called **Cardinal Virtues**—viz., **Prudence, Justice, Temperance, and Fortitude**. They are called **Cardinal Virtues**, because, from them, all the other moral virtues have their origin.

218. Prudence, generally taken, is the habit of weighing well that which we wish to do, in order to see whether it is useful in reference to its end, or not ; and in order thereby to act wisely. A free agent always acts for an end, and his action is the medium by which he aims at attaining the end proposed. Therefore, before acting, he ought to consult, to weigh, and to judge his action, thereby to learn whether it is in all respects adapted to the attainment of the desired end, or not. Now, this careful examination is what we call a prudent act ; and the habit of considering before acting constitutes the virtue of prudence.

Hence, we see that prudence is a moral virtue of the will, or a habit of the will, notwithstanding that the intellectual faculty should be the one to discern things, and their aptitude to the end. In fact, the essence of this virtue does not consist in the knowledge of things, nor in the sagacity or promptitude exercised in comparing the adopted means with the end ; but it consists in the habit of using wisdom, and in the possession of sagacity before beginning an action. He, who is bereft of wisdom, is ignorant ; he, who does not forecast, is stupid ; and he, who acts without considering what he is about to do, and without weighing it, must really be imprudent.

Opposed to prudence, *per defect*, are rashness, precipi-

pitation, temerity, and neglect ; opposed, *per excess*, are scrupulosity, instability, indecision, and even doubt. Moreover, cunning, deceit, and fraud, are not vices *per excess*, but they are vices emanating from that ill use of prudence, which seeks by evil deeds to be successful.

219. Justice.—In morals, this word has many meanings.

First.—In its general sense, it signifies a disposition of the will, always and in all things, to be conformable to the law. Law is the measure of our actions, and that which is in conformity with this measure is termed just. So, all moral actions that agree with the law may be called just, as well as good. In this sense, justice is a virtue which disposes to the observance of all duties ; and, in general, it is the moral virtue which we have before styled obedience.

Second.—In a minor sense, justice is that virtue, which prompts us to render to everybody that which belongs to him, no matter how it be due. In this sense, justice is a disposition to fulfil our duties towards others—viz., to God and man ; because the duties which we owe to others are the subject of duties. The duties which we have towards ourselves are not comprehended in this definition, because we cannot do to ourselves either justice, or injury.

Third.—Justice, in its strictest sense, is defined to be the virtue which disposes us to render to everybody that which is his own. In this sense, the object is to respect the property and possessions of every one, and its formula is comprehended in these words : *Unicuique suum* : “ Give to every one his due.” In morals, when we speak of justice, it is always taken in its minor sense, —viz., in the second sense explained above.

220. Temperance.—Temperance, in its general sense, is that virtue which inclines man to keep himself within the just measure of everything, and to be moderate in all the actions to which he is led by the love of good.

It coincides with moderation, even in the performance of moral good. The perfection of this conformity is, as it were, a point, from which, in the performance of good or evil, man may deviate either *per defect*, or *per excess*.

Still, in a more restricted sense, temperance is the virtue which disposes us to use moderately all those things that constitute the subject of the sensual appetite. Its species are abstinence, sobriety, chastity, and many others, of which we shall treat, when speaking of duties in particular.

In any sense, temperance is that virtue which immediately regards self-government, in reference to one's self. A person is not intemperate in infringing the rights of others, but rather in confining his own actions within the limits of greater convenience to himself. Hence, to the subject of temperance, as a moral virtue, may be assigned all the duties of man towards himself.

221. **Fortitude.**—Fortitude is that virtue which disposes us to undertake to obtain, even at the cost of the loss of temporal goods, all that is necessary for the fulfilment of our duties. As, by temperance, we are prompted to keep ourselves within due limits in reference to our duties, so, by fortitude, we are animated not to be overcome by anything that can hinder the accomplishment of our duties, and to yield only to the dictates of just reason. This virtue consists in the sense of our own dignity and courage, blended with the sense of our own rights. Opposed to this virtue, *per defect*, are timidity and cowardice; and, *per excess*, presumption and audacity.

222. **Influence of the Cardinal Virtues on the Fulfilment of Duty.**—From what we have noticed in defining the above virtues, it is manifest that they differ from one another, not only as to the different duties whose fulfilment they induce, but also as to the different mode whereby they concur to the observance of every duty. In the vast field of duties, Justice and Temper-

ance hold the greatest sway ; for they comprise every duty that we owe both to ourselves, and to others. The remaining two, Prudence and Fortitude, are, as it were, stronger dispositions to complete those duties which have for their object, Justice and Temperance ; and they are all different dispositions, tending towards the great centre, Obedience ; or, they are subsidiary virtues of the greater virtue, which exists in the love of order. These virtues ought all to co-operate for the acquisition of the same good. Indeed, where would be the love of order, the spirit of dependency, and respect for the Divine Will,—in one word, obedience,—if, in practice, a person were not to consider whether his action be right, or wrong ? Where would be order and obedience, if, knowing what is right, one had not the fortitude to do it, and, being aware of what is wrong, had not sufficient courage to reject it ?

In conclusion, the cardinal virtues ought to concur, each in its turn, towards the observance of a single duty, or the performance of a single good moral act. Prudence should concur, because it shows whether the thing or action be useful, or not. When our duty is in reference to others, and to ourselves, justice and temperance should concur, to show how we may act righteously towards others, and in what degree towards ourselves. Lastly, fortitude must always influence the performance of an action, in order that all repugnance, or contrary suggestions experienced in doing a moral good, may be triumphantly overcome.

223. III. Intellectual Virtues.—Truth is the subject of these virtues. Hence arises the duty which binds all human beings to procure for themselves this intellectual virtue. Ignorance of truth, besides being, when willed, a guilt in itself, bereaves man of all direction and incitation to do good. If the good be unknown, it cannot possibly be loved. But the substance of good is mingled with that of truth. *Ergo—*

Man ought to acquire truth with all his efforts, and by those means which are the most easily attainable, and the best adapted to his capacity and state. He must persuade himself of its veracity, and of its motives of credibility, so as to be able to distinguish it from error, which frequently assumes the garb of truth, and which, with its false charms and allurements, endeavours to occupy its place. This knowledge of truth, this facility in detecting error, so as to rightly judge of things, is what we call intellectual virtue, or, simply, science.

224. These Intellectual Virtues constitute the Physical, but not the Moral Goodness of Man.—Intellectual virtues, or the habits of knowledge, directly perfect man in his physical, but not in his moral perfection—*i.e.*, they render him better as a thing, but not in his morality. The goodness, greatness, and perfection of man, consist in his correspondence with the end for which he was created. Man, created by God for the manifestation of His perfections, becomes greater and more perfect, in proportion as he increases in the knowledge of God, and in the better understanding of His essence, His works, and His Will. An intellect more enlightened by truth, and thereby placing man in greater correspondence with his end, raises him above others who do not, in the same degree, correspond with the same end; it causes him to be greater in that relative greatness which is the greatness of created things; it makes him a more perfect being, and more perfect in relation to God, Who is the beginning and the end of all created things.

But this most honourable greatness, this precious perfection, cannot immediately, and of itself, constitute the goodness or moral perfection of man. Moral perfection is the perfection of the will; it proceeds altogether from our free operations, and essentially consists in the conformity of our free will with the Will of the Eternal Being. He, who in a greater light perceives God, His perfections,

His works, and His laws, but who acts not according to God's Will, or acts imperfectly, is, morally speaking, less perfect than the man who knows far less about God, but who acts according to His Will. A philosopher might know all the most glorious truths in reference to God, and in the order of creation, and yet be less perfect than a poor, ignorant, old woman, who, by acting according to the Will of God, acts in a more perfect way than the philosopher himself ; because moral perfection consists in those habits of the will, which alone can be said to be moral virtues.

225. **The Moral Goodness of Man is principally caused by the Good Acts of his will.**—Although moral virtues are the immediate good habits of man's will, and although they have a great part in the moral perfections of man, nevertheless, we must not entertain the idea that in them is to be placed his moral goodness, and that from them his merits before God effectively emanate. The real moral goodness which man has is the effect of his actions; and this does not consist in his state, nor in his good dispositions. His merits do not proceed from the greater or less facility which he experiences in doing good, but from the real effect, more or less exercised. Before God, he who does more is greater than the one who could do more in a better way, but who does it not. Nay, of two persons who, with the same exactness, fulfil the Will of God—the one doing it with great care, and the other, on account of contrary disposition, doing it with great difficulty,—the latter would obtain greater merit, and would, consequently, be morally better than the former. The reason is, because our goodness or moral perfection consists not in the perfection of entity, but in that of work. Perfection of work is morally measured by obedience ; and this is greater or less, according to the greater or less repugnance which is to be overcome in order to obey, and in proportion to the sacrifice, which we offer to God,

of our own will. In conclusion, moral virtues do not, of themselves, cause us to be morally better than we really are, unless we perform those actions to which these virtues dispose us.*

We have now completed our task of laying down the most important theoretical principles of moral philosophy, which, when well comprehended, will most surely guide us in the investigation of those particular and practical duties, which will constitute the subject matter of the following books.

* 1. When we say that all kinds of virtue are reduced to obedience, the reader must bear in mind that, by the word obedience, we here mean the desire to fulfil God's perfect Will, by doing everything that is pleasing to Him.

2. Moreover, we hold that merit depends, only *indirectly*, on the difficulty experienced, and *directly*, on the motive and perfection of the agent.

3. Again, in reference to Faith (p. 135), we do not speak of that Faith which Revelation teaches us to be essential to salvation; because Faith, properly speaking, essentially consists in receiving truth on mere authority; whereas, in our sense, it is a persuasion of God's existence, logically deduced from the existence of things.

BOOK II.



PRACTICAL PART.

SOCIAL DUTIES.

CHAPTER I.

SOCIAL DUTIES.

226. This nineteenth century in which we live presents to our minds many abnormal states of things. At this very time, we are spectators of a paradox whose existence will be a subject of criticism for future ages. On the one hand, an ardent desire is displayed for the knowledge of natural truths; and, on the other, a thoroughly cold indifference as to the acquisition of moral truths is lamentably apparent. The increasing host of learned men is continually on the alert to discover some new physical truth. Nature can no longer conceal her secrets; for the penetrating eye of man, like the keen eye of the eagle, explores them, whether they be buried in the depths of the earth, or of the ocean, or whether they be suspended high above our atmosphere, beyond the ordinary limits of human vision.

Yet man is not only matter, but also spirit; and a proof of this is manifest in the flight of his intellect, in the profundity of his speculations, and in the incessant power of his inventive faculty. Man is like the ring of a chain, uniting the corporeal world with the spiritual—the visible nature with the invisible. On this account, moral truths are, as it were, bright rays emanating from the Supreme Truth, and illuminating his mind, that he may clearly perceive the path of right, which will lead him to the attainment of his final end, by the fulfilment of his duties.

In the Theoretical Part, we proved that the reason of all the duties of man is the Will of the Supreme Being, Whom we call God. Man, created by and for God, absolutely depends on Him. For Him we must always work,

taking for the rule of our actions, His Divine Will ; since in Him abides the supreme reason of what is right and just, of moral good, or honesty. The man who seeks elsewhere than in God the supreme reason of what he must either do, or omit, cannot but be a pseudo-philosopher ; for his morality would be inconsistent. He may utter high-sounding phrases, but he will never make use of real arguments. The reason of all that is not eternal is only one—viz., the Eternal Being. In Him resides the first absolute cause of whatever exists,—the supreme reason of all that man possesses. All that is real, be it substance or accident, absolute or relative, having its origin either from reality or possibility, exists, because God willed it.

Now, the duties, whose origin we are ever seeking, and the moral good, whose supreme reason we are always striving to demonstrate, are a reality, an existence, and not a mere possibility. Our duty consists in the obligation to which we are really subject. Moral good and evil consist in the true conformity of real actions with the commands of positive laws. Therefore, they cannot be things of mere possibility, but they are the reality of an existing order, an existing duty, and, in fine, of an existing good or evil. Nor do we speak of things as existing in God ; because it is not He Who is bound by duty. The actions, which either are, or may be, in that conformity which constitutes morality, are not the actions of God. In man, and in the conformity of man's actions, is this morality to be found. Therefore, in the natural order there exist a moral obligation, a duty, a convenience or non-convenience between the agent and his operations, and a rule. These exist in the real conformity of created things, and, therefore, the moral order itself is a reality in the order of Nature, having its supreme reason in the Eternal Being. Hence, a moral philosopher who should attempt to explain, or a legislator who should presume to impose duties without God, would

be proved to be irrational. To explain duties, and to impose them without God, would be the same as to form a syllogism without a principle, on which to base the reasoning power, or argument. Without a cause, there cannot be an effect. Hence, there is a God Who rules Supreme over all ; otherwise, the things of this world are a kind of automaton.

The supreme reason of our duties is God's commanding Will. We are bound to do a thing because God wishes it to be done ; and, were He not to wish it, we should be under no obligation to do it. The Will of God constitutes the sufficient reason of all our duties. To seek this reason in anything but in God, is to create fictitious reasons, and to substitute them for the true and only one. Not to be satisfied with it, is to wish for more cause than effect,—for more reason than reasoning; it is, in one word, to wish an absurdity ; because the prime reason cannot have a reason ; for all the causality, or the reasons adduced in addition to that reason which is requisite and sufficient for causality, would be a cause without an effect, a reason without argumentation, a principle without a postulate ; and all these are absurdities. It is evident that we here speak of reason as a principle of being, and not as a principle of demonstration. Reasons may, indeed, be various, and also sufficient ; because the methods of arriving at the knowledge of truth may be various, and also the *genera* to which a thing may belong ; and, therefore, the universal principles whereby we may demonstrate the truth may also be various. But several things together cannot individually constitute the total cause, or sufficient reason of the same effect. For instance, one mother may have many children, but there cannot be one child, the fruit of many mothers. In this case, the sufficient reason or cause of the result would be one mother.

When once we have found the sufficient reason of our moral duties, there remains nothing else to be discovered.

But, were we still to continue in quest of it, we might, perhaps, succeed in finding something as its cause, which, however, would either not produce it, or would produce a different effect, although it were to be called by the same name ; or which would cause it to be productive, while, in reality, it did not produce.

Many have striven to find the supreme reason of duties,—of moral good and evil,—in the wisdom and intellect of God. But this is a simple equivocation, continued by taking a long stride from the kingdom of ideality to that of reality, and by confusing consequent necessity with antecedent. For it would be illogical to conclude that, although a property be essential to the essence of a thing which is willed, or necessarily inherent in it, still the thing should be wished on account of its nature. For we know that he who desires a thing cannot but wish for what constitutes the object, as such ; and that he who desires the whole must essentially wish for all its parts ; otherwise, it would be both to desire, and not to desire it. We know that, from this necessity, our intellect, desiring the whole, logically longs for its parts. Still, we cannot see, as to the existence of those parts and their requisite relations to the essence of the things, how another cause could be wanting, different from that which causes the whole to exist. We cannot understand how it could be said that the whole proceeds from the free Will of God, while its parts have an antecedent reason of existence in the same Will of God, and are, at the same time, independent of it.

Many say that the intellect is before the will, because, unless we understand, we cannot wish. Even in God, although He is eternal, the intellect is before the will ; for it is the latter faculty which elects, and the former, which causes it to elect. It is the Divine Intellect which, in the infinite essence of God, contemplates the nature of all things, and sees the relations and proportions in which good and evil reside therein. Therefore,

from the intellect of God, His Will detects good and evil, and, as it sees, so it either commands, or forbids.

The inconsistency of the above argument will be clearly shown by considering that, *quod gratis asservatur, gratis negatur*. You, who discourse of things in reference to the works, so called *ad extra*, of the Will of God, say, beforehand, of what things, of what relations, of what good or evil, and of what science you speak. What do you see, before creation, in existence, in harmony, in correspondence, in proportion,—good, evil, and eligible? We find nothing else than the Eternal Being; either an active force, a real infinite action and Being; or a *purus actus*, equally infinite, in the centre of an immense variety of possibilities, which, without Him, are nothing, correspond with nothing, constitute nothing, and are of no use. God, most perfect and happy in Himself, can remain indifferent in the midst of them. His science of simple intelligence, whereby He sees all possibilities, presents to Him nothing to choose, nothing to reject; because that great whole, which consists of all the possibilities outside of Him, is but a great nothing. This nothing is, indeed, itself the vast field in which God exercises His infinite power, and from which He gathers all that is necessary for His ends. But, to reap fruits, God is not obliged to have recourse to such a field.

If He has recourse to it, He does so of His own free Will, and for an end which can only be the manifestation of His extrinsic glory, there being no necessity to compel Him to do so. Now God, wishing to make known His extrinsic glory, has recourse to as many of the indefinite possibilities and causes as He wishes to be in action, in order to manifest Himself in the degree wished for. Therefore, wisdom enlightens the will, and places before it the chosen means to every end, but it prescribes nothing. God, seeing these diverse means shown forth by His intelligence, remains free to choose which He likes,

provided they are all suitable for the manifestation desired; because He is always Master, to choose, and to succeed in His choice. If God wills a determined mode and end for His manifestation, it is also necessary for Him to determine a medium; this is so, because He can only wish when He wishes, and cannot wish when he does not wish; but not because the medium chosen is a good which he ought to wish. The medium is willed in the volition of the end, and both together form an object of volition. To desire an end, is not only a property of the wisdom of God, but also of all intelligent beings; with this difference, that, in God, the end is not willed because the intelligence presents to it a good medium, but because the will, electing the end, chooses as the medium the one He wills. The medium is willed with the end; because to wish an end and not its medium would be equivalent to wishing and not wishing the end. But to wish and, at the same time, not to wish the same thing is absurd. *Ergo*, when God absolutely wills an end, He must necessarily will also the medium producing that end. This is a necessary consequence, a necessity which is reconciled with the liberty of acting, because it may be resolved thus:—It is impossible not to act when one is acting; there being no antecedent compulsion either to act, or to continue the action.

Moreover, that medium which God chooses, whereby to attain an end, is, in itself, neither good nor attractive, because, before its being placed in action by the Divine Will in virtue of creation, it is a mere nothing, and nothing cannot have the property of goodness. Before its creation, the only good is God, and in Him is the end, freely willed, and positively existent. When the Divine Will, having already wished the end, and, consequently, the medium, has created it in its reality, then it also becomes a good. It is a metaphysical good, inasmuch as it is a reality, and a copy of an archetypal idea in its entity. It is a simple good, inasmuch as it corresponds

with the end for which it was created. Then, God Who created it, seeing it with the science called vision—*i.e.*, with a glance of His intellect, and finding it to correspond perfectly with the end for which He created it, beholds in it the properties of proportion, of beauty, and of goodness, and loves it, not so much for its reality, as for having by it attained His end. Behold, therefore, the beautiful and good, which the Divine Intellect perceives, and which the Divine Will loves in His works *ad extra*. This good consists in the real created being, and not in its possibility. Reason could not teach differently; for any one can perceive that a real, though miserable hut is far better and more beautiful than an ideal palace, existent only in the mind of the architect.

On this subject, there is still another objection to be answered. Some philosophers say that God is infinitely good and wise, and that, in His infinite wisdom, He discerns that object whose issue is good, and, therefore, finds it good; and, as He is infinitely good in Himself, He wills it to be so.

Were this argument true, it would prove that God, necessarily perceiving that which has a good effect, ought also to choose it. But creation is good; therefore, God was essentially compelled to create. If so, the liberty of God would be destroyed, and the system styled fatalism would prove true. God with His infinite knowledge sees all the good that He might produce *ad extra*, but He is not compelled by His own nature to wish it, nor to have recourse to those media which are apt to produce it. Moreover when God, to produce an end, freely chooses to create a good, seeing a medium He makes use of it; but not as though it were in itself a good thing, for He does not elect media, but He creates them. He does not choose the best ways for the attainment of an end, but He makes the way. And not until the way is made do we call it a good way. But that which produces this medium is the will. *Ergo*, in the Will of God is placed the

first cause, the supreme origin, the final reason of all that either physically or morally exists, of real good and evil.

Even to people who will not admit a reason *a priori* to show that the Will of God is the supreme reason and rule of our actions, we may prove the same fact. God, when saying, acts ; and, when acting, says. As his word produces, so His production speaks. In order to comprehend His word, and to learn what He wills, it suffices to glance at His works. Has He created the world ? If so, He positively willed the manifestation of Himself to intelligent beings. Behold, therefore, the duty which is incumbent upon these beings to glorify Him ; for it is imposed by His Will. Has He created things in the order in which we see them ? If so, He willed that He Himself should be manifest in things of such and such an order ; and that all things, in the order in which they were created, should serve Him ; according to the precept,— “Keep the order established in all things.” To speak plainly, the physical order reveals to us the Will of God, and this constitutes the moral order.

The supreme reason of our actions—viz., the Will of God—is, as it were, the soul of all that we shall have to say in reference to every kind of duty, social, international, and individual. This it is which gives life to every member, and enters into all kinds of resolutions. Philosophy is the science of things in reference to their cause or supreme reason ; and the cause or supreme reason of all is God. Hence, that philosophy which seeks to reason without this supreme rule cannot be true philosophy, but pseudo-philosophy, whose conclusions are error, absurdity, impossibility, libertinism, licentiousness and the destruction of those vital principles, on which rest individuals and society.

Before entering on this discussion of social duties, it is of great importance to know the exact meaning and classification of our various obligations. This will form the subject of the following chapter.

CHAPTER II.

MULTIPLICITY OF DUTIES AND RIGHTS, AND THEIR CATALOGUE.

227. As the supreme reason of our duties, as well as the general principle whereby all duties are imposed on us, is but one; so, the duty, wherein are contained all natural duties, is likewise one—viz., “Keep the order.” Nevertheless, as the general law may be divided and subdivided into special laws and precepts, so duty may be divided into various duties of different species, in accordance with the division of the general law; or into as many things as are specifically distinct, and commanded by the general principle—“Keep the order.”

But things or actions, specifically distinct, which, on account of the difference of the thing which is commanded to be done, constitute the matter of a distinct duty, may be contained in a determined genus, greater or less, according to the more or less extended reason which comprehends them all. Hence, the duties specifically distinct may be classified under different heads, comprehending more or less numerous duties.

228. Innate and acquired Duties and Rights.—If, for the basis of the classification of duties and rights, we take their diverse immediate origin, or that fact from which are immediately derived duty in one person, and right in another, they are divided into innate or natural, primitive or absolute; and into acquired or derived, adventitious or hypothetical.

Innate duties and rights are those which subsist in the very fact of the existence of men and their natural relations, independently of every other fact or wish.

Acquired or derived rights and duties are those which we know to be existent, in consequence of a fact or title which proceeds from the free will of man. It is

owing to the natural law that such right and duty exist in the order of things ; and we know it by means of natural reason ; still, the fact or condition on which right and duty depend, and whereby they are known to be established, has been realized by man, and not by the physical laws of Nature. Therefore it is, that these duties and rights are termed acquired, derived, or hypothetical, whilst the others are named primitive or absolute.

All the duties and rights that proceed either from transactions, or from the acquisition of a thing which belongs to nobody, are acquired rights. Those are innate, which regard the preservation and perfection of one's self and of others, for the love and service of the Eternal Being. To this latter kind belong the duties which exist between father and son ; because, although the human fact concurs in it, still it is always Nature which causes the one to be the father, and the other to be the son.

229. Personal and Real Duties.—Duties emanating from those titles or facts, which are immediately inherent in the person, and possessed by him, are called personal duties and rights ; such, for instance, are the rights of our existence, honour, and goods, and the duty of respecting these very things in others.

Real rights and duties are those which one obtains through titles or facts immediately inherent in the thing itself, and which follow it without passing to persons, except through their taking possession of it. Thus, for instance, he who acquires the possession of a field, in which there is active as well as passive servitude, acquires also the rights and duties inherent in it.

230. Positive and Negative Duties and Rights.—Rights and duties, in reference to their matter, are called positive, if their object is the performance of a thing by one, in behalf of another. The person who performs the action holds the positive duty, and the other, on whose behalf the action is performed, holds the positive right.

On the contrary, rights and duties are called negative, if their object be, that, in reference to the rights of another, a thing should be abstained from. Such is the right which one has to his liberty, together with the duty to leave others free; and such is the right to act as we like, along with the duty to permit others to act likewise.

231. **Active and Passive Rights.**—Rights alone may be divided into active and passive. It is an active right to do or to give something in reference to others. For instance, a father has an active right to educate his child. To expect something from others is a passive right. For instance, a father has a passive right to be respected and loved by his child.

232. **Social, International, and Individual Rights and Duties.**—Lastly, with regard to the different formal subject of rights and duties, which is man, they may be divided into (a) Social rights, if the rights and duties belong to man, inasmuch as he is a member of society in relation to the other members of it; (b) International, if they exist between society and society, between people and people, and between nation and nation; (c) Individual, if they have reference to man as an individual.

Now, before beginning the study of the duties which relate to society, &c., it will be requisite to discuss some theories regarding all those duties which we have towards ourselves in society, and those which exist between society and society.

233. **We are Privileged to Defend our own Rights.**—By this, we mean only to affirm, that, when man has a right, whatever it may be, he has also the moral liberty to exercise it, so long as he possesses it. He has, at the same time, the right to defend either his moral liberty, or his rights, against any person who may attempt to usurp, or to impede their exercise. Because, to have the right to do a thing, without having the right to destroy by legitimate means any hindrance to its performance, and to have

the right to use or to possess a thing, without having the right forcibly to repel any attempt to withdraw it, could not be a right. If, therefore, there exist a right to a thing, there must also exist a corresponding right to defend it against invasion. Nobody can be denied the privilege of self-defence, unless it be proved at the time, that, under the circumstances of the denial, and before the persons denying it, he no longer has any right over the thing. To admit an existing right, and to deny its defence, would be to act in opposition to justice.

The rights of defence, in order that they may be just, ought to have the following conditions :—*First.* That no more force should be used against the aggressor, than is necessary to repel his violence, or to remove the hindrance which he unjustly places in opposition to our rights. *Second.* That the use of force should have for its object the defence of the right, and not the offence of the invader; because it is the end in view which forms the action of a free agent, and constitutes its morality. *Third.* That the force which one resists be a real usurping force, and not the prerogative of another. *Fourth.* That the right which we defend be a certain real right, and not merely an opinion, or a probability of an existing right.

234. Collision of Rights.—There arises a collision of rights, when those of another are opposed to our own. In this collision, the inferior right ceases to be right before a superior one, just as an obligation is no longer binding when contrary to a greater obligation. The supreme origin of all laws, and, consequently, of all the rights and duties of men, being the same, it is impossible that they should be opposed to one another, because this would imply that God could will two contrary things; or rather, that He could, at the same time, both wish and not wish the same thing. But this is absurd. *Ergo*, the so-called collision of rights is not a collision, but a cessation, as we have said above, of the inferior right before the superior one; for it is an incontestable

truth that, in the practical fact, or in the concrete, there cannot be right opposed to right, nor duty opposed to duty. There can be neither right nor duty to do that which causes the violation of a greater right belonging to a greater duty.

235. **Relative Gravity of Rights and Duties.**—The greater or less gravity that exists as to rights and duties is measured by the greater or less importance of the thing which forms their matter, in reference to the maintenance of the order established by God for the final end. Indeed, that which, to a greater extent, corresponds with this end is considered to be also, to a greater extent, willed by the Creator. But that which is principally willed by God imposes a greater corresponding duty on our part. Therefore, the gravity of duties and rights is derived from the greater or less importance which their subject or matter presents, as a medium to the end in view. The application of this law to particular cases, when not fixed by competent persons, is left to the individual himself, aided by the advice of wiser persons.

Man, who is created immediately for God, stands in importance above all other created things; and whatever is created directly for man, possesses more or less importance, according to the service it renders to man for accomplishing the end of his creation. Hence, man is not to be subordinated to any temporal interest, but only to the universal order, to truth and justice, for which he was created. In man, the good of eternity is superior to that of time; his person, to any of his parts; and his life, to his physical perfection. Among the things created for the welfare of man, those which are calculated to perfect his intellect are greater than those tending to perfect his body; and such as are necessary for the integrity of his life are greater than such as are necessary for luxury and convenience; and so forth. It belongs to prudence practically to decide whether circumstances so change the relative value of things as to cause that which, in its nature, is less important, to be of greater

importance. In the solution of our questions, and in the treatment of rights and duties, let the reader again notice that we always speak of the formality of a thing, or of the morality in its object.

236. The Right which Man has to Reparation for an Offence.—This reparation which we speak of is not simply a restoration of what has been unlawfully taken, but rather a satisfaction, or compensation for an offence given, by the infliction of some pain on the offender, as a punishment for the evil wrought against the person offended. This punishment has in itself the character, not of vengeance, but of defence; and, therefore, it is lawful. In fact, man has a right to defend himself, not only from the oppression of others, but also from their malice. That is to say, he may not only repel the action of the aggressor, but he may also fortify himself with every lawful means necessary to prevent others from displeasing him, or from usurping his rights; and no one can reproach him for so doing.

Now, chastisements are among the best means of checking the malice of men, and of restraining those appetites which are ever inciting them to the acquisition of objects, by trampling underfoot the rights of others. God has placed His sanction on His law, and has, consequently, ordained a chastisement for the violator of it. From this sanction the necessity and utility of punishments are derived. Punishments are said to be medicinal, because they are calculated to curb the malice of the malefactor, and to prevent the malice of others.

But punishment is not only salutary for defending ourselves from the malice of others, but we have a still further right to make use of it, because it is according to reason to prevent the evil likely to be wrought by another, and because an evil deed, when committed, ought to be expiated by its author; for it is natural, rational, and just, that he who does evil should be punished.

We admit that in well ordered society this punishment is to be inflicted by public authority, to which the care of common rights belongs, and that every one should abide by its imposition and execution. Nevertheless, we affirm that the right of inflicting punishment belongs to every subject of society, because chastisement, as we have said, is according to reason and justice, and, consequently, its infliction is a right of the person offended. If this were otherwise, not even public authority could inflict punishment; because the social power is willed by God not to dispense new rights to man, nor to create new duties, but to keep and preserve the rights and duties already possessed; not to assert the order of justice, but to maintain it. This right, therefore, exists by the order of God, and it is the person offended, who, in and for himself, bears the reason of the chastisement. If this is just, why should he not use this right himself? Why should he not either himself, or with the help of his friends, do that which might be done according to the dictates of reason? What kind of right would his be, if its exercise were prevented? Therefore, in his individuality, man may exercise this right where civil society is not constituted, and within the limits prescribed by reason; using punishment, not as an act of authority, but as an act of self-defence.

The truth of this statement is not shaken by the objection which some might bring against it—namely, that to leave this right in the individual, would lead to its abuse. We answer that Nature tells him how he ought to make use of this right, and that he ought to use it in the proportion that reason dictates, and without any feeling of vengeance. For, were man prompted to inflict a punishment, merely for the sake of vengeance, he would do wrong; nor could any one excuse his act, since, both in public authority, and in the individual, vengeance is unlawful. But, if we were to deny the right of punishment in the individual, for fear lest he

might abuse it, we could, for the same reason, deny him all the other rights that he possesses ; for he might abuse them all. Under these circumstances, it would be better to put to death a newly born infant ; for, if his eyes be opened to the light, their tender pupils may be destroyed ; if he begin to learn, he may imbibe error ; if he begin to speak, he may abuse his speech ; if he begin to act, he may abuse his liberty ; and so forth. Therefore, to deny the right of self-defence and of the infliction of punishment, on the ground that one may abuse it, is repugnant to common sense. But, let us ask, are the wicked so useful to society, that we should have regard and compassion for them, even at the cost of denying to the person offended a right dictated by reason ?

CHAPTER III.

SOCIETY AND ITS GENERAL NOTIONS.

237. If man were intended to live like other animals, he would not require any one to govern him ; every man would be his own king, under the supreme command of God, inasmuch as he would govern himself by the light of reason, given to him by the Creator. But it is man's nature to be a social and political animal, to live in community, and in a manner different from that of all other animals. This is clearly shown by the necessities of his nature. Nature has provided food for other animals ; raiment, in the form of skins, &c. ; means of defence, such as teeth, horns, claws, or, at least, speed in flight, &c. ; but man has not been endowed, in the same degree or manner, with any of those qualities ; but, in place of them, he has been gifted with reason, by which, along with the use of his bodily powers, he can supply his own wants. To do this, one man alone is not sufficient, for he is not in a condition to preserve his own

life; it is, therefore, in man's nature to live in society. Moreover, Nature has granted to other animals the power of discerning what is useful to them, and what injurious. Each animal knows its natural enemy. Some animals discern by nature the herbs which are medicinal to them, and likewise other things that are necessary for their preservation. But man does not naturally, and apart from society, possess the knowledge requisite for the support of life, inasmuch as it is only by the aid of reason that he can pass from universal principles to the knowledge of the particular things necessary for life. But it is impossible for one man alone to obtain all this knowledge. It is necessary, therefore, that he should live in society, wherein one is aided by another, each one applying to his own task.

This is clearly shown in the faculty of speech, which is peculiar to man, and which enables him to communicate his thoughts to others. Indeed, irrational animals mutually communicate their feelings; some in one way, and some in another. But man, with respect to his fellow creatures, is more communicative than any other animal, even than those which are the most inclined to live in union, whether in herds, flocks, or swarms, &c. If, then, it is natural to man to live in society, it is necessary that there be some one to direct the multitude; otherwise, were many to live together, and were each one to do as he might think fit, society would fall to pieces; as would be the case with the human body, or with that of any other animal, if there did not exist a power to direct, maintain, and preserve all its members. In man, the soul directs the body; and, in the soul, the feelings are governed by reason. The members of the body are subject to one which principally directs all the others—viz., the heart, or the head. There ought, then, to be a governing power in every multitude. From the above argument we can plainly see how futile and subversive is the theory of the Genevese philosopher, Rousseau,

who makes the existence of society, and the right of civil power, depend on human conventions, and seeks to ruin society by declaring that man is born free, while yet he is everywhere in fetters. In another place, where he attempts nothing less than to give advice to a great nation, he has hardly begun the task, when he holds over Europe the torch of an incendiary. "When we read ancient history, we fancy ourselves transported to another world, and among other beings. What have the French, the English, the Russians, in common with the Greeks and Romans? Little more than the form. The great souls of the latter almost appear to us as exaggerations of history. How can men, who feel themselves to be so little, imagine that such magnanimous heroes ever existed? They did exist, however, and they, like ourselves, were human. What, pray, hinders us from being men like unto them? Is it not our prejudice, our base philosophy, our grovelling passions, our egotism, combined with absurd institutions directed by men of puny minds?"

The existence of society depends not on the consent of man. Society is not his work. It satisfies an imperious necessity, which, if not appeased, would entail the destruction of the human race. God, when He created man, did not abandon him to the mercy of chance. He gave him the right to fulfil his necessities. He imposed on him as a duty the care of his own preservation. Therefore, the existence of the human race includes also the existence of government, and the obligations of obedience. There is no theory so simple, clear, and solid, as this. Shall it be called the enemy and oppressor of human freedom? Is it any disgrace to man to acknowledge himself a creature of God, and to confess that from Him he has received what is requisite for self-preservation? Is the intervention of God any infringement of human liberty? And cannot man be free, without being an Atheist? It is absurd to say that there is any thing

favourable to servitude in a doctrine which says, "God wills not that you live like wild beasts, but He commands you to be united in society; and, for this purpose, He orders you to live in submission to an authority legitimately established." If this be called servitude and oppression, we desire it, and we willingly surrender the right, which is pretended to be granted to us, of wandering like wild beasts in the woods. When man is robbed of the finest attribute of his nature, namely, that of acting in conformity with reason, true liberty exists not in him.

238. Society and Social Duties Defined. — In general, Society is the union of many under one common director, for the co-operation of each, in the attainment of one common end. Social duties consist of all the obligations that men have, as members of society; or rather, of all those things that they ought either to do, or to avoid, on behalf of the society, of which they form a part.

239. What are the Matter and Form of Society? — From the definition given above, it appears that society can exist only amongst intelligent and free beings, because they alone are capable of proposing to themselves an end, and of following a common direction for the acquisition of that end.

However, the tie which unites men together is neither the unity of the common end, nor the union of their forces for its attainment; but it is the submission of all the members to the directive power, which co-ordinates the forces to the general end, regulating each one in his duty for its attainment. Without this power, which morally governs the force of all, and directs their actions in such a way as to have them all under its control, joining them in the unity of its will, in which they are bound up, there could be no society, notwithstanding the consent of all to the same end, and the concurrence of all in aiming at the same good. If every one has an eye to the

same thing, then every one, independently of the rest, wishes for it, and acts to obtain it. Amongst this multitude of people, each one wishing for the same thing, there is no social union. In order that they be united, it is necessary that they should all wish it in accordance with the same will, namely, the will of him who commands all. This will, to which all submit respecting the end of their association, and which is called power, constitutes the form of the social body; and persons who submit to it, for the attainment of the common end, constitute the matter of that social body.

Amongst the persons thus socially united, he who constitutes and directs the power is styled the head of the society, and the persons under his rule, the members. The head and members—the matter and form together,—are named the social, or moral body. The common good of this social body—*i.e.*, the sole end to which all aspire—is also the motive of the association.

Hence, the genesis of a society of men, as by reason understood to be existing, is this:—a good, whose existence is known to everybody, produces a yearning after it; this yearning causes everybody to feel an impulse to do what is required to obtain it; the union of many to obtain it becomes useful and necessary. This union cannot exist, unless all the members are under the control and direction of one commanding power, which prompts all the members and forces to exert themselves for the attainment of their common end. This commanding power is the head of the social body, which, being similar to the individual organic body, could not subsist without a head, to which all the members ought to be subservient or obedient. Thus, society is formed; and, thus, it lives and works.

240. The Essential Power of Society is an Influence constituted in a Human visible Subject.—It is manifest that, for the existence of a society, properly speaking, it is necessary that the men who form it should be

governed by some visible power. This visible power, personified in one or more individuals of the same association, is constituted its head. If society is, as every one understands it to be, a visible moral body, it is necessary not only that its members, but that also its head, be visible. If this were not so, one could see its parts, but not its organization or moral body; because the governing power, and that which morally unites the parts together, could not be seen. And furthermore, even its parts, formally taken, would be ignored; for, not knowing on whom one depends, nor the motive power, nor the directing head, one would not recognize in them the members of a moral body, there being no union, and the only visible thing being man.

The dependence of all men on God cannot, in itself, constitute society, properly so called. God commands all in reference to what is to be done or to be avoided; and, at the same time, he wishes all individuals to be good to themselves and to others. But so long as men, in the fulfilment of their duties, are independent of one another, there can be no society among them. Every one, in this state of independence, would act for himself, and be responsible to God for his own actions, nor could any one ask him the reason of his doings. Now, this independent relation of man to man could never be called society. The human race is frequently called the human family, or society; but, strictly speaking, the name society could not be given to it, unless there were a power established, on which all men should depend. In other words, the idea of power is absolutely requisite for the essence or existence of society.

241. **Perfect and Imperfect Society.** — Society is called perfect, if the power which governs it is independent of all other powers on earth, so far as regards the things which belong to it; or rather, when that power is not subject to any other authority. It is called im-

perfect, if the power directing its members is subject to any other greater earthly power. We say earthly power, because all the powers of a perfect society depend upon God, Who is the heavenly power. Nations, whether great or small, are perfect societies ; provinces, communes, towns, &c., are imperfect societies, because they depend on a greater power, which is the nation or kingdom.

We speak of perfect society, not in the sense that, in its essence, everything is good and perfect, but rather, because it is a complete moral body, independent in its being and in its actions, just as the body of a person is perfect in the physical order, and in its complete substance; for a perfect society may be a weak and infirm association ; and, on the other hand, an imperfect society may be healthy and vigorous. A nation may be decayed, yet a borough belonging to it may be wonderfully vigorous.

242. **Society does not destroy the Individual Personality of its Members.**—Man does not, by being a member of society, lose either his nature, or his individual personality, whether we consider him physically or morally. He remains a human being ; an agent physically free, and responsible before God and Man for his operations ; an agent subject to those moral laws which God has imposed on all human beings ; in fine, an agent with all his individual duties and rights. Society can introduce into the exercise of these duties and rights only certain modifications required by the essence and the end of society itself, for the greater universal good. Moreover, in the exercise of all his duties and rights thus modified by society, every individual retains his moral personality, and remains responsible to God for his actions, either in conformity with, or in divergence from, the exigencies of the one who is the head of society, and who exercises the social power.

It is not sufficient to do what the social power exacts,

but it is requisite that it should be done according to the ordinance of God, Who imparts authority to all powers. To deny this statement would be to reduce man, as a member of society, to the state of a performing doll, for whose motions only he who causes them is responsible ; it would be an offence against the dignity of man, and would destroy the end for which he was created. If God created so many human beings, He created each individual to worship and serve Him ; and not that He might place Him under the autocratic control of one, who alone should be responsible for all, and who alone should worship Him.

243. Societies differ from one another, when their end is different.—Associations or societies are various, according to the diverse end for which each is established. An end specifically diverse constitutes a society specifically different from all others ; an end numerically diverse forms also a society numerically distinct from any other. This is self-evident, for, if the end be diverse, the means also will be different, and likewise the operations, their direction, the mission to uphold this direction, and, consequently, the power necessary to maintain it.

In order to have one society specifically distinct from another, it is not necessary that all the persons constituting it be also specifically diverse ; because the same person may be a member of many societies specifically different, as the same person may have more ends to acquire, and, consequently, may have to concur with others for the attainment of these different ends.

Imperfect societies may be as innumerable amongst men as the ends which they propose to gain. Our object, however, is to treat only of perfect societies ; and, from the laws which we shall lay down, every student will be able to judge of all the various societies, and to draw conclusions as to their corresponding duties and rights.

The perfect societies of which we treat may be reduced

to three ; for all men tend towards three most important ends—viz., private good, public good, and spiritual good. For the first end, domestic society is established among men ; for the second, civil society ; and, for the third, religious society.

CHAPTER IV.

DOMESTIC SOCIETY.

244. Domestic Society is the union of several persons under one head ; the latter directing the work, and administering the gain of every member, for the maintenance, the education, the perfection, and the well-being, of each individual. The moral body resulting from such union—*i.e.*, the domestic society—is styled family, and he who governs it is called the head of the family. Domestic society differs from all perfect societies : *first*, because there is in it only one administration of the common property and of its fruits, as well as of the work of every member ; *secondly*, because its head ought to promote the welfare of all the members, not only as regards the common good of the family, but, directly, as regards the wants of every member in particular.

245. How Domestic Society is Formed.—So long as domestic society has a progenitor from whom all its members proceed, its formation is to be attributed to nature itself. In order to form it, the purport of the will of its members is not necessary. The father, the grandfather, and the great grandfather, are, by right of nature, the heads of the family. To preside over it, it is right that the highest member of a family should commit the exercise of some of his functions to some of his descendants, especially in that which concerns the advantages of fortune ; but he could never lose his supremacy over the family—*i.e.*, the right and authority to command

all its members—for he is the head, and will always remain the head, so long as he has the necessary mental force to direct the family.

On the demise of this common head, the direction of the family falls to the lot of the eldest son, if he is capable of ruling it; and he remains the head, until the other members of the family express a contrary will. Nevertheless, the brothers are perfectly free to seek separation, in order to constitute other families independent of one another; simply because brotherhood does not oblige any of them to live in community with the rest, and to be dependent on the eldest. Primogeniture does not constitute superiority over the others, because they are not born of the eldest, nor nourished, nor educated by him. The firstborn, therefore, as such, has nothing of himself in his minors, to claim the right of superiority over them. He is only the first among equals, and among equals there cannot be juridical supremacy; for, in such a case, it can exist only by the will and submission of others.

246. Duties of the Head of a Family.—The head of a family, whether he be so in the order of nature, or constituted so by others, will always have the same duties as are appropriate to the head of a family. Generally speaking, the duty of the head of any society consists in the exercise of such diligent care as may be necessary to promote its interests in the best and most pleasing way, and in conformity with the end for which the society was established. Hence, as the intention of a family is to generate and maintain, to educate and perfect, the individuals composing it, so the duties of its head are those actions which correspond with the same objects—viz., to provide all with the necessities of life, to ensure their physical and moral training, to distribute in just proportion the work and the goods of the family, to keep peace between all its members, and, in fine, to administer everything in justice and love for their welfare and prosperity.

247. Duties of the Members of a Family.—The members of a family ought, without distinction, to respect the head, and obey him in everything concerning the domestic society ; and every one, in his own sphere, ought to exert himself for the welfare of the family, and to fulfil his proper duties. Children may not dispose of their work, nor of the income obtained by it ; because it belongs to the family, and is under the disposal of its head. This is demanded by the very nature of this association, and it is just that it should be so.

There are, however, some exceptions, either according to certain conventions, or to the general or particular habits of a family, whereby its members may dispose of some of their occupations and incomes. For instance, it is in accordance with reason that a son should dispose of those goods which, by some special title or reason, belong to him alone. Civil laws generally grant to a son full dominion over those goods which he may acquire by exercising either military or civil functions, and which were called by the ancients *Castrenses*, or *quasi-castrenses*. He has also direct dominion over the goods acquired either by title, donation, or inheritance ; and these are called *adventitious* goods.

Domestic society comprehends three different kinds of societies : *first*, the conjugal or matrimonial ; *second*, the paternal or parental ; and *third*, the herilis, or the society between master and servants. We shall treat of the duties and rights attached to these associations in three different chapters respectively.

CHAPTER V.

CONJUGAL SOCIETY.

248. Conjugal society is that which is established between an individual man and woman, for the procreation and education of children, as well as for the mutual

bestowal of help and comfort, in that position and communion in which Nature has placed them.

The contract, by which two capable persons establish between themselves this conjugal society, and place themselves in each other's power or possession, so far as refers to its scope, is termed matrimony. By this term, the state of conjugal society is frequently understood in a wider sense than the act whereby it was initiated. Both persons who have contracted matrimony are considered as one, in reference to the other conjugates, or husband and wife.

The union of man and wife is the most perfect and intimate that can possibly exist between two persons. Matrimony, in itself, cannot properly be called a society ; but rather a companionship of two equals with reciprocal duties. Whatever superiority the husband has over the wife results only from his being the head of the family, and not from his being the husband : and thus the wife becomes really subject to the husband.

249. **Matrimony is Lawful in Itself.**—This is evident from the end for which man was created ; for there can be no doubt that one of the purposes of his creation was the reproduction of himself, and the development of his intellect. But self-reproduction and development of intellect are left entirely under man's own control, God having bestowed upon him special faculties for this end. Therefore, man ought to fulfil his mission by procreating children, and by educating them, in order to perfect them with reference to their end. But self-reproduction, multiplication, and education, are gained by marriage, or conjugal society. *Ergo*, this society is, according to the natural order, without any fear of mistake ; and consequently it is, in itself, honest.

250. **Conjugal Society becomes a Duty incumbent on the Person who wishes to procreate Children.**—Matrimony is not only honest in itself, as we have said, but it becomes a duty on the part of him who wishes to

have children. The reason of this is, because, outside of the conjugal society, the education of children would be most difficult of attainment. Man was placed in this world in order that, by fulfilling the order established by God, he might attain that perfect happiness for which he was created, and thus glorify his Creator. Hence, any one who wishes for children, must desire to have them for the same end, and not for any end contrary to it. In order to do this, he must procreate them, and place them in those circumstances and conditions in which they may be well educated for the acquisition of the same end. But, to educate them thus, nothing is better adapted than conjugal society. *Ergo*, matrimony becomes a duty on man's part.

In fact, without unity of will and of action on the part of both parents, without unity between themselves and their children, in one word, without matrimony, the necessary love requisite for procreating and taking proper care of their offspring, and the mode of duly providing for their wants and perfection, appear to be not only difficult, but impossible. Hence, the procreation of children outside the matrimonial state is contrary to the order established by God, and it is reprimanded by reason itself, because it is diametrically opposed to the education of children, which cannot be disunited from their procreation ; for procreation includes education ; and proper education is imparted by the authors of procreation. *Ergo*.

251. When the Acts of the Faculty of Procreation are Unlawful.—Not only is the procreation of children, outside the marriage state, contrary to the law of Nature, but, moreover, every act of the above faculty performed either in or outside the marriage state, when, in its nature, it is not apt to generate children, is wrong and unlawful, because opposed to the laws of Nature. If to act for the procreation of children in a state wherein education cannot be given (as would be the case between

unmarried people), be to act against the order established ; then, to act in such a way as to prevent reproduction would be to act against the proximate and final end, and would, therefore, in itself constitute a double evil. If this is a dictate of true reason, what say we of that effusion of a pseudo-philosopher of this age, who strives to prove that the procreation of children ought to be limited, and that the use of the procreative faculties is lawful, whenever, however, and by whomsoever exercised. This false doctrine, if approved of, would lead to most sad and fatal consequences. On this ground, the very idea of fidelity in the bond of marriage would be a mere chimera ; for there could be no security for the marriage bed. Youths of both sexes would, by their unrestrained indulgence of unlawful desires, bring upon themselves an utter impossibility of attaining the end of marriage, namely, the procreation of children. These false principles would prove fatal to society itself, in consequence of the loss of many human beings, who, if born, might one day be its glory. The most useful members of society both of past ages, and of the present, have been useful, simply because they were born ; for can we be grateful to any being for the attainments of his great intellect, if such a being never existed ? Who knows but that the offspring of a poor labourer, as well as that of a rich man, may be one day a most renowned statesman, or an intrepid general, or the inventor of some means of sparing poor suffering humanity from great calamities ? How can that which is in the order of possibility prove to be real, if that which can be done is rendered an impossibility ? Shame upon the man who would, forsooth, try to teach contrary to the dictates of reason !

It is to reason against reason to say that the procreation of children ought to be limited, either when a country is overflowing with people, or when the father is too poor to bring up his offspring respectably. The

whole world is a dwelling-place for man, and, when a nation is overstocked with people, man's nature prompts him to emigrate; and he really does so. This fact is attested by history, and is undeniable. Nevertheless, who is the man that finds fault with too many people being in a place? He is a jealous, covetous, and selfish man. He would have them make room for his own precious self. Moreover, when a nation is overstocked with human beings, this excess proves nothing, if there is plenty for everybody's sustenance, when he exerts himself, and works for it. The evils which are witnessed in an overcrowded nation are also visible in a scantily populated country. A man may be poor in Quebec, as well as in London. He may die of starvation in America, as well as in England. England abounds in wealth, and yet, comparatively speaking, there are more cases of starvation here, than in China. Wherever he goes, an industrious man will find plenty; but a lazy man, even in the midst of plenty, will find nothing. Thus, the superabundance of human beings in a nation can be no reasonable motive for preventing the procreation of children. If such a reason were plausible, the following argument would be plausible:—London is overcrowded with human beings; but an overstocked city is disadvantageous to a great number of well-to-do people: therefore, London ought to be decimated. Nobody, however, will grant the reasonableness of this assertion. Therefore, neither can it be granted that it is reasonable to decimate possible beings, that in reality are decimated, when, in virtue of a false principle, procreation is lessened.

In reference to the other reason adduced—viz., that, if parents cannot provide for their children, it is better to stop their procreation—I will simply say that it is an impertinent, unjust, and abominable abuse of the power of reasoning. Is not the whole world, forsooth, for the indigent as well as for the rich? Is a poor creature

forbidden by any law to exert himself for his own maintenance? To what purpose does he possess intellect, liberty, and knowledge? If to no purpose but to remain steeped in poverty, then I cannot err in asserting, that barbarians are more civilized than the men of enlightened nations. But if to some purpose, then there lies spread before the indigent man a vast field, wherein he can reap a plentiful harvest. Moreover, is not the existence of a human being, however poor and destitute, a better thing than his non-existence? If so, the man who wilfully stops the procreation of a child is guilty of a crime, equal in malice to that of murder; for both the murderer and the man who wilfully prevents generation deprive society of its members, with this difference only, that the one does it in posse, and the other, in esse.

Man, in his free actions, ought always to prefix an honest end; and, in order to have such an end, it is necessary that he should so act as to please God, by electing that which He has commanded. Now, when the actions of procreation do not correspond with the end commanded—viz., the multiplication of the human species, they cannot have an honest end, because they are contrary to the law established by God; and, therefore, they are evil.

In conclusion, the faculty of self-reproduction is wrongly and unlawfully used, either in the bond of marriage, or outside it, when any other end is proposed than that of procreation. The exercise of this faculty for a proper end by people in the married state is honest and lawful; but, among unmarried people, it is dishonest and unlawful, even though the end be that of procreation.

Furthermore, in the married state, the exercise of this faculty is in itself lawful, even though it be known that its end cannot be obtained, because the effect is, to a greater extent, in the sphere of God, than in that of man.

252. When Matrimony is an Absolute Duty.—Matri-

mony is not only honest in itself, but it would become an absolute command to every one, when the propagation and conservation of the human race, entrusted by God unto man, should oblige every one to take part in it. In this case, every capable being would be bound to enter into the conjugal state, because the reasons which excuse from this precept, and justify celibacy, could not any longer exist. This is a merely speculative question.

253. **Lawfulness of Celibacy.**—When the human race is sufficiently propagated, then it becomes lawful, nay virtuous, to abstain from matrimony, in order to dedicate one's self to one's own perfection and to that of others ; and this end can be better obtained by those who are disengaged from the cares and anxieties peculiar to conjugal society. He who, on this account, abstains from matrimony, co-operates with the rest of men for the final end. Having left aside what is provided by others, he dedicates himself to the attainment of his own perfection, and, at the same time, he affords unto others, by his example and instruction, an incentive to live rather in accordance with reason, than in accordance with natural impulse. He thereby co-operates more effectively for the end of man's creation ; he becomes more useful to himself and to others ; he conforms himself more perfectly to God's will, and performs a greater good.

Hence, that perpetual celibacy to which many consecrate themselves is as far more noble than matrimony, as the moral life of man surpasses the physical life. Many of the objections raised by immoral philosophers against this assertion are based not upon reason, but upon passion. The man who, by his own inclinations and passions, judges the actions of others is not logical, but illogical. A noble mind soars aloft, like the eagle, in the regions of true aesthetics and intellectual beauties, nor does he deign to glance upon the polluted earth, where the animal man, perceiving no other than animal pleasures, loves to dwell. It is undoubtedly possible for

a noble mind to detach itself from the base allurements of earth. This fact is attested by the lives of thousands of magnanimous and virtuous men and women. Why, then, should pseudo-philosophers wildly and continually cry out that celibacy is an impossibility? If so, man's liberty is brought to nought, for he would be absolutely compelled to do that which he abhors.

That celibacy, however, which is embraced by one, who, in order to escape the troubles and anxieties of domestic life, renounces matrimony, and yet rejoices in fornication, is, indeed, dishonest, abominable, and most despicable. It is infamous, cowardly, and anti-social; and, in its own nature, it is contrary to the order established and approved by reason. But that celibacy which has for its primary object, science, instruction, self-perfection, the fulfilment of sacred functions, and the edification of others, is most noble, praiseworthy, and meritorious.

254. **Conjugal Society exists only between two Individuals of Opposite Sex.**—The state of matrimony, whether selected on account of its honest end, or because it is necessary to propagate the human race, can exist only between man and wife; because matrimony, in itself, is an onerous contract; but, in an onerous contract, there must be equality of value between that which is given and that which is received; therefore, it is a dictate of justice that if one be given, one should be received, and not two. Thus, in marriage, there is a mutual transfer of each other's corporal self, and, in virtue of this transaction, a change of possession takes place between the contracting parties, and each of the two has a right to keep and defend this possession from the usurpation of others.

Moreover, the unity of husband and wife is the means best adapted to the acquisition of the end of matrimony. But the aim of matrimony would be impaired by the plurality of both persons. *Ergo*, it is a dictate of reason that the best means should be applied for the acquisition

of an end ; otherwise, it would be just the same as to act against the law.

Lastly, this is the opinion of the wise men of all ages ; it is universally practised by all civilized nations ; and it is corroborated by the commands both of natural, and of civil laws. But, when there are intrinsic and extrinsic reasons whereby a thing may be proved, that thing must be true. *Ergo.*

255. Simultaneous Polyandry and Polygamy are forbidden.—By polyandry, we mean the possession of many husbands by one woman. Polyandry is forbidden by Nature itself ; because it is a positive natural fact that, among the human species, it is destructive of procreation ; and, as it destroys procreation, it is self-evident that it is opposed to the end of matrimony, and, if opposed to this end, it is also contrary to the order established ; and, therefore, against Nature. Again, even supposing that it does not destroy procreation, still it would be against the mediate end of matrimony, namely, the education of children. None of the husbands would feel bound to educate them, because no one could absolutely affirm that he was the real father. Let us lay a veil over all the miseries and sad effects produced by such kinds of matrimonial societies, and let the experience of mankind speak for itself.

Simultaneous polygamy, though usually understood to mean the possession of many wives by one man, is a plurality either of wives, or of husbands, at the same time. Although polygamy, in its usual sense, is not absolutely contrary to the law of Nature, because the procreation of children is not thereby impeded ; yet, if we examine it in reference to the mediate end of matrimony, it seems to be indirectly against Nature, because of its opposition to the order established ; and, therefore, it is unlawful ; especially when, by reason of the abundant propagation of the human species, a person has no excuse for acting against the laws of his country by becom-

ing a polygamist. In addition to this, let the unfortunate wives tell us their terrible stories, their disappointments, their anger, their quarrels, their sad fatalities, and all the evils that jealousy may engender. Woe to those philosophers who, in spite of the light which beams upon their eyes, would dare to teach the contrary!

256. Successive Polyandry and Polygamy are not unlawful.—This statement needs no testimony; for, when one of the two parties united in the bond of marriage is bereft of life, it is not against the natural law, if the surviving party elects to marry again. This successive state of marriage is not, in itself, contrary to the end of matrimony, nor to the nature of conjugal society; hence, it is not forbidden. Those reasons which, in the first instance, cause matrimony to be honest and dutiful, may also cause a second and a third marriage, and others in succession, to be the same, unless more powerful reasons, proceeding from other sources, oppose this.

257. Conjugal Society ought to be perpetual.—Conjugal society is, in its nature, perpetual in this sense, that when once formed, it cannot, even by mutual consent, be destroyed until death. Its perpetuity is demanded by the end of matrimony. The reciprocal love and confidence between husband and wife, so necessary to the felicity and interests of a family, and to the proper education of children, would be at least very difficult, if not altogether impossible, were the married persons not to be united by any indissoluble bond. How could there be that unity of aims and means, indispensable for the well-being of a family, were the two parties allowed, at any time or moment, to separate from each other. In this case, each one would think only of self-interest, and would provide accordingly, in order that his or her condition might be improved after the separation. Thus, even though together, they would establish two houses in one, and two families in one. Such society as this could not be society, but a mere contradiction. Such

means could not be established by Nature for the attainment of the proper end of matrimony. Therefore, conjugal society, so far as it is a society, ought to be perpetual; and matrimony, indissoluble.

It is impossible for husband and wife to be morally joined together in a manner opposite to that in which God wills them to be united. And, when they are once united, as commanded by God, it becomes impossible for them, while God's commands exist, to become disunited. These moral ties are a force of God; hence no human power or violence can break them. Perfect separation, therefore, as regards the matrimonial tie, or divorce, cannot be under the control of men, because it is contrary to the laws of Nature, except through divine permission.

It is not within the scope of this work to unfold the crimes, the sufferings, and the sorrows caused in society by those who trample under foot this command of God, as our main object is to lay down fundamental reasons. Nevertheless, we suggest to the reader to examine for himself the injustice done both to society and to individuals, by keeping in force laws which favour absolute divorce. The evils produced by divorce are incalculable, and no wonder that society has become more and more pernicious and disloyal, presenting, in the midst of the most illustrious, and the most civilized countries of the world, symptoms of decay, and the cancer of dismay and putrefaction.

258. Conjugal Society, but not the Matrimonial Tie, may be dissolved for Just Motives.—The matrimonial tie still remaining firm, it would not be against the laws of Nature, in the presence of just motives, to dissolve an existing conjugal society. That is to say, there may be separation *a mensā et thoro*, by a mutual renunciation of the use of the rights acquired in virtue of the matrimonial contract, and by declining, either wholly, or in part, the fact of each other's society,

according to the greater good to which they both aspire, and on account of which they elect to separate. Just motives for creating such a divorce may be obtained from those very sources which provide a just motive for not contracting marriage. This may happen when the rights of one party, which cause the duty in the two persons to be united, may be renounced by the person who possesses them; for any one may renounce the rights which he possesses, and, by so doing, he relieves the other party from his relative duties. But, if there be other reasons why the parties should remain united, the force of such reasons ought to be examined.

As regards the rights of the second party, one of the two persons may separate, even without the consent of the other, when the latter is guilty of some of those actions against the former which naturally free him from his contracted duties. Those actions, which liberate one partner from the duty of maintaining conjugal society with the other, and which absolve him from his contracted duties, are,—scandal, or the moral prejudice caused by one against the other; vexations, resulting in great loss of health and peace of mind; adultery, &c. In fact, it cannot be presumed that one should oblige himself to anything that is very pernicious to himself. God would not compel any one to keep an agreement under such unjust and severe conditions. It is a general law of contracts that, when one of the contracting parties fails in his promise, the other is freed from the duty of fulfilling his own engagements in the contract. When, therefore, one or more of the above conditions are verified, the innocent party may separate himself from the other, as far as the law permits; and, even if the law do not grant separation, he may, without failing in his duties, withdraw himself from bed and board.

259. The Matrimonial Tie causes the Consorts to be united also in the Bond of Love.—Setting aside the above cases, we say that conjugal society ought to be

perpetual for the twofold reason of right and of fact, until it is dissolved by death. The union ought not only to be a material union of external works and interests, but a union of love, of heart, and of affection. Both consorts ought to exercise fraternal charity towards everybody; they may even entertain a special friendship for those they like best; but conjugal love—that affection which unites two persons of opposite sex for the acquisition of the matrimonial end—cannot be extended to others; it must exist only between themselves. This was the love which primarily established the union between them. This was the principal object of their promises in their mutual consent to matrimonial union. In this consists the greatest comfort of their lives, and both experience a desire of its increase. This mutual love is the greatest and most efficacious means of maintaining between them that felicitous peace which is the soul of their society. For all these reasons, that love, of which we speak, must be restricted to themselves alone, and must not be imparted to others.

That this love should be confined to themselves, and not extended to others, can also be proved from the danger to which conjugal fidelity might be exposed, were such love to be entertained towards others. He, who has a duty to perform, is obliged to remove all the obstacles which may impede him from fulfilling that duty. But to feel for others that love which should only be felt for one's consort, is to place obstacles in the way of maintaining conjugal fidelity. *Ergo*, such love must not be entertained for others, it being an obstacle to the fulfilment of a duty which is both natural, and of the most vital importance. If it is not excusable in unmarried people to conceive such affections, on account of the want which they experience, and of the right which they have to choose a partner, surely it could not be excused in a consort, there being no reason whatsoever to excuse him from fulfilling his

natural duty of fidelity towards the other party. Therefore, it is unlawful.

260. The choice of a Consort is independent of every Human Power.—On the ground that matrimony is an indissoluble society, demanding the union of the hearts of the consorts, reason teaches us that perfect liberty is to be allowed to all, either to contract, or not to contract matrimony, and, above all, to choose one's own partner. The emotions and tendencies of the heart can scarcely be commanded. This being granted, no one has the right to interfere with them ; and to interfere in a matter of such importance as that of marriage is detestable. Let every one, therefore, be free to choose the object of his heart's affection for future years, since the choice is prompted by the feelings of the heart.

God sufficiently provided for the complete institution of conjugal society. Hence, human authorities can only take an interest in it, and dictate laws, indirectly. These human laws should aim at preventing man from transgressing the bounds set by God, in reference to the multiplication of the human species, and should assign penalties for those who, by transgressing these limits, become prejudicial to the natural and social order. This end being attained by the human power, through the adoption of commanding and coercive laws, let each one, in the choice of a consort, exercise free will and unfettered liberty.

As regards the choice of a partner in the matrimonial state, nobody should, either directly or indirectly, impede the liberty of the one who has the right to select ; because only the latter knows in whom his heart's affection is placed. Sympathy will also have its laws, and it is not subject to discussion ; for the ancient saying, *de gustibus non est disputandum*, is ever true ; about the tastes or feelings of an individual we cannot dispute. When a proper taste or liking for a thing is absent in an individual, it would be useless to seek the reason of it,

and nobody would succeed in procuring it. Nevertheless, sympathy has an important standing-place in the good issue of matrimony; therefore, it could be neither excluded, nor contradicted. As there is a variety of objects, so is there a variety of tastes; and though every one, in the choice of a partner, should be allowed to act freely, still the advice of prudent persons is not to be spurned; especially when one, who, in the spring of life, has been captivated by the allurements of love, may, by such advice, be induced in good time to subdue the force of a blind affection which, in future years, might prove his misery, if not his ruin. But, if he insist upon possessing the object of his desires, he has the right and liberty to possess it; and let him have it; considering that, generally speaking, a person may, in these cases, be more satisfied and happy with his own choice than with that of another, even though the latter be of greater excellency.

261. Matrimony between near Relatives is Unlawful.—Although the choice of a consort is free, still one must not choose a partner amongst his near relatives, as the partnership might then exist between parents and children, in a straight line *usque ad infinitum*, as well as between natural brother and sister in a collateral line. Amongst these persons there exist some relations which are in opposition to the equality, and to the obligations of matrimony. Verily, if matrimony be a state of equality, how could the reverence due to ancestors, and the obedience due to parents be conciliated? How could parents keep their children under subjection, and guide them unto perfection, if, by admitting marriage to be lawful among them, they make them equal? Hence, reason tells us that matrimony between such persons would be unnatural, and, consequently, unlawful. Moreover, the social family which exists between ancestors and descendants has placed among them such inward dispositions as seem to be repugnant to that confidence and

love, appropriate to conjugal society. And, furthermore, it is the order of Nature and the Will of God that the above persons should live together, and form domestic society, so long as good reasons do not dictate the contrary, as we shall see further on. But, if they were allowed to contract matrimony, their living together beforehand would soon prove dangerous to their morality ; for continence is far more difficult of observance between persons who are keeping company, and who think of being one day united, than between those who think of no such thing.

Moreover, the inhabitants of the world have always held as prohibited, and have constantly rejected, matrimony between near relatives. This universal consent is in itself a strong proof that what we have stated is according to the dictates of reason.

Now, as regards matrimony between relations in the collateral order, we cannot say that reason proves it to be against Nature ; because, in the hypothesis that the human race should require to be propagated, matrimony even between near relatives, in the collateral order, would be lawful, and, consequently, not against Nature. But, as this necessity does not now exist, such matrimony is forbidden by reason of conveniency and natural feelings.

262. Reciprocal Duties between Consorts.—Matrimony being validly contracted between fit and proper persons, there is contracted at the same time the obligation of fulfilling all the duties inherent in conjugal society. Before marriage, the persons were at liberty either to agree to it, or not ; but, conjugal society having been once established between them, they are unable either to suspend its obligations, or to vary its laws. The nature and the laws of this society are constituted by God ; and the obligations of both parties are demanded by the end of conjugal society.

Hence, both consorts have the duty, willed by justice, not

to deny to each other the use of the matrimonial act; both parties having the right to demand it. It is their duty to preserve that love which is necessary to reproduce themselves; and to bestow it on others would be a grievous crime against justice. It is their duty to help one another in their temporal and in their spiritual wants, and to maintain and educate their offspring. It is their duty to aim at each other's perfection, and to fulfil towards each other all the obligations imposed by charity and justice. In both persons there must be a dutiful anxiety to lead a happy life by the strict observance of God's commands, and by the fulfilment of their reciprocal obligations. There must exist between them mutual respect for their own personality and rights. They must willingly and spontaneously render to each other assistance in want, support in weakness, patience in infirmity, and consolation in affliction. These are, in general, the duties both of husband and of wife. Nevertheless, it is necessary to consider also the special duties of one towards the other.

263. **Special Duties of the Wife.**—Conjugal society is an equal society; hence, the wife is independent of her husband, as the latter is independent of the former. Although the entity of a wife is more feeble than that of the husband, yet her rights are equally strong and just.

But, considering matrimony as a domestic society, we say that, since the husband is by nature constituted the head of the family, it follows that, in this respect, the wife is subject to the husband, and that she owes him obedience and respect, so far as regards the welfare and the government of the house. On this account, she ought to accompany her husband wherever he wishes to set up his abode, unless she be prevented from so doing, by reasons of greater moment. In other words, in conjugal society, the wife is equal to the husband, and, in domestic society, she is dependent on, and subject to him.

Even though, in conjugal society, the wife is equal to

the husband, still the duty of fidelity devolves more strictly upon the wife, by reason of the greater injury which she would cause to her husband by the violations of her marriage vow, or, in other words, by conjugal infidelity or adultery. The greater gravity of the injury caused to a husband by an unfaithful wife is a fact admitted by all.

Setting aside the reasons adduced by others, we prove that the infidelity of the husband does not, to the same extent as that of the wife, violate society, or alter matrimony, or disfigure the nuptial bed. The evil deeds of an adulterous husband are performed outside the *ens-conjugium*, by themselves established. The human being, born of husband and wife, remains formed of the same elements. The productive principle, which both of them concurred to constitute, is not changed. The unic cause of the fruits of matrimony is not falsified. But, on the contrary, were the wife to be unfaithful, the principle of causality in the production of their fruit would be altered by the interference of a third party; and thus the total cause of that production would be falsified. In such a case, the husband would not be said to have the total part; and if not the total part, then he might not have it even in any measure; and, consequently, he would be reduced to assume and sustain a false position—namely, that of being father, without being so. Therefore, adultery on the part of the wife contains in itself greater injury than that on the part of the husband.

264. Special Duties of the Husband.—It is the special duty of the husband to set a good example to his wife in all things, in order that he may not be the cause of her infidelity, either by bad example, want of love, or ill-treatment. The husband, being head of the family, and being stronger than the rest of its members both in mind and heart, ought to guide his wife, and remove all obstacles to the happiness of both. He should win her esteem and her affections; for the wife, besides loving

more strongly, feels a stronger need of being loved. To this end, Nature made her more amiable, in order that, by her amiability, the serious and rigid temperament of her husband might be soothed, and his affection won ; and that so he might be constituted her sincere, firm, and true support, and defence. Woman's nature is so formed that she is almost irresistibly drawn towards the man who most loves her ; therefore, the husband, in order to keep her heart within his own, should, to the utmost extent, love and cherish her. Neither in commanding, nor in correcting her, should he adopt hard words, nor show any sign of contempt, nor make use of excessive authority ; because all this, besides being evil, might also be pernicious and dangerous to her love. He may always be firm and decided regarding the fulfilment of duties in domestic society, but, at the same time, let him be ever gentle, and considerate, and ready to please his wife in all that is just.

CHAPTER VI.

PATERNAL SOCIETY AND ITS DUTIES.

265. Paternal or parental society is the union existing between parents and children for their common welfare. The necessary elements of this society are parents and children.

The first element of this society is the power exercised by both parents, or, when one of them is dead, by the survivor only.

The head of this society is the father, on account of the greater physical power, and greater intelligence, bestowed by Nature upon him, for the direction and government of the family. The mother, who is also head as regards the children, is yet subject to the father.

The children, whatever be their number, constitute the

other element. They form the dependent and obedient parts of this society.

This society does not precisely consist in that union of life which ought to exist between parents and children, whilst the latter are incapable of providing for themselves. This natural tie, the rights and duties, the superiority and dependence, which naturally flow from the relation between parent and child, cannot be styled society.

Though every society is a moral union, it cannot be said that every moral union is a society; but only that moral union is a society, which is established by the accord and conspiracy of the will, for an end which all, under one common direction, seek to attain. Infants, though in union with their parents, cannot aspire with them to the same end, because they are incapable of conceiving it. Here, therefore, we have only natural union, obtained by the relationship between natural wants, and natural duties.

Parental society, properly speaking, consists in the spontaneous and free union maintained with the parents by the children, even when the latter are capable of providing for themselves, and when they are no longer compelled by Nature to look to their parents for support.

It is in virtue of this free union, that parents hold their place, as heads of the family, in reference to the children, who are their dependents and subjects.

266. **This Society is Obligatory by the Law of Nature.**—Parental society, even when its subjects, through external necessities, are no longer bound to live together, is still maintained, in virtue of a natural command existing between parent and child.

The relationship existing between parents and children is very different from that which exists among the lower animals between parents and offspring. Birds, for instance, as soon as they can fly sufficiently well, take wing and leave their parents; and, having quitted their nests, they thereby put an end to the ties of relationship

which previously existed between them and their progenitors. No instinct either of piety, of friendship, of gratitude, or of filial love, compels them to live together. But, in human parental society, these motives do exist —*ergo*, the members of such a society ought to live together. Indeed, how could children exercise filial piety or affection, if they were to deprive their parents of the consolation afforded by their very presence? How could they be dutiful children, if, as soon as reared, they were to quit their parents, and were thus to deprive themselves of their wise counsel, instruction, and moral assistance? If children have a heart, they ought to love their parents, and not deny them that affection for which they so ardently long. If children have any feelings of gratitude, they ought to dwell with their parents, and assist them in their wants, help them in the toils of domestic life, and become their support when old age renders them incapable of supporting themselves.

If children are thus compelled to live with their parents, the latter are also commanded by Nature not to quit their offspring. They must educate them, and lead them on towards physical and moral perfection, so that they may become useful and upright members of civil society.

Hence, it is manifest that, according to the law of Nature, familiar society between parents and children ought to be maintained. We say ought to be maintained, because the union which such society demands is already made by Nature itself. Nature has assigned its parts, and established its duties. Here the human fact, or the assent of the parts, does but confirm the work of Nature, and impart to it the true character of a society. The union and the duties already exist in this society, before any tacit, or express convention among the members of this moral body.

267. **Emancipation from Paternal Authority.**—Although, before any expressed consent, there exist reciprocal duties and union between children and parents,

still, they are not such as in justice to oblige the parties to live together. When the son owes no other obligation to his father than that imposed by Nature through being his son, he may, without any violation of justice, leave the paternal roof and establish a dwelling-place either for himself, or along with others. And, on the other hand, when the son is capable of supporting himself, the father, as regards the duties imposed on his paternity only, may, without violating the laws of justice, dismiss him the house, and leave him to provide for himself. In the above cases, there is no property either of the one, or of the other, to be violated; nor any right of justice to be trodden under foot, although there are some natural duties which both might, in either case, transgress.

When the son is no longer compelled by natural necessity to live with his parents, he may separate himself from their authority and society, in order to acquire a greater good either for himself, or for them. He may leave them to devote himself to the public weal, to acquire greater perfection, or to undertake more lucrative occupation. Such reasons as these are sufficient to free him from paternal society, unless there be other and greater reasons to detain him with his parents, and to demand of him a continuance of his dependence on paternal authority, and of his union with it.

In civil society there are positive laws regulating the time and the manner of freeing oneself from the authority and subjection of parents; and, according to these laws, one ought to act.

268. **Respective Rights and Duties attached to the Paternal Society.**—So long as paternal society is in existence, the duties incumbent upon its members are such as exist between them by reason of natural relationship, which demands that union of life be maintained amongst them. In this society, the reasons of its existence, and of its parts, are not determined by man, but by God in the order of Nature. Hence, its scope will always be, to keep the natural and indestructible rela-

tions firm, in order that the members of this society may the better fulfil the respective duties which spring from these natural relations, and which will always exist among them.

269. Rights and Duties of Parents with regard to their Children.—The jurisdiction of parents over their children is greater when the children are under their power, than when the latter are freed from the union of parental society. So long as the children are united in this society, the parents, and more especially the father, have a right to govern them, to watch over their conduct and morality, to see whether they fulfil their individual duties, or not, to make a fair distribution of work among them, and to administer the goods which are requisite for the maintenance of each and all of them. If parents with their children were to form a part of a larger family, the administration of domestic affairs would devolve upon the greater head of such society, namely, upon the grandfather, or the great grandfather. Still, the dependent parents would always have the right to treat with the greater head respecting their own interests, and those of their children.

Along with the above rights, the dependent parents are also in duty bound to provide, either of themselves, or through the greater head, everything conducive to the welfare of all connected with this society. They must exercise the utmost vigilance over the conduct of their children; they must check licentiousness; they must infuse into their hearts the spirit of religion, and see that its obligations are fulfilled; they must nourish religious feelings by encouraging spiritual reading, pious exercises, and other devout practices; and they must sow in their hearts the good seed of every virtue. Moreover, it is the duty of parents to take care of all their own adventitious goods, and, if possible, to augment them, so as to leave their children well provided for.

270. Rights and Duties of Children with regard to

their Parents.—Children, so long as they remain under paternal control, ought to obey their parents in all that concerns the political and moral welfare of paternal society. They ought to devote their minds and hearts to the improvement of all domestic affairs, in order to enable their parents to provide with greater ease all that is necessary for the comfort and well-being of the family in whose goods they participate. And they ought to leave entirely at the father's disposal any profits accruing from their labour, when engaged in their father's business.

Although children are thoroughly dependent on their parents, they nevertheless retain the right to elect for themselves that state of life which they deem to be best adapted to their natural feelings. To effect this, however, they should not entirely depend on their own limited experience. The advice and views of their parents should be anxiously sought and carefully considered; for parents possess greater experience than their children, and they discern with far greater discrimination what is good and what is evil. Nevertheless, if the parents' opinion differ from that of the child; and if, after duly examining and weighing the former, the child still prefer his own view, he will be acting within his rights in selecting that state of life which may appear to him the most preferable. On his choice of a state of life depend his well-being and happiness; and, therefore, it is within his right to do whatever he may consider to be best calculated to ensure his future welfare.

Moreover, let it be observed that, so long as a child is under parental control, he is not bereft of the right over his own personality, or his honour, or his life; for, over each of these, his right is absolute. He likewise retains in this society his own freedom in everything that is not opposed either to his education, or to the well-being of the family.

Furthermore, a child, though not yet emancipated from parental control, may hold direct possession of all goods

acquired independently of his parents—*i.e.*, obtained either by direct donation, or by his own skill, independently of his duties towards his family.

271. **The Children of a Family depend on its Greater Head through their Parents.**—When the father himself is not the head of the family in which he and his children live together, the latter depend on its head either through him, or through the mother. The domestic society which a son, who is already a husband and a father, preserves with his own parents, and with his own brothers and sisters, does not destroy those ties of conjugal society which he has formed with his wife, nor those ties of parental society which are naturally formed between himself, his wife, and children. He ought, however, to depend on the head of the family, and to cause his wife and children also to depend on him. Nevertheless, immediate jurisdiction over them belongs to himself, and on him, because he is their head, his wife and children principally depend, with regard to those things which appertain to conjugal or paternal society.

When there is opposition of command between the greater head of the family and the father, the children ought to obey their own father. With him they form a branch of the family, and this branch is, through him, united to the tree. Consequently, they ought to maintain the order of communication, and depend on the head of the family through their father, and in conformity with his wishes, either implicitly or explicitly manifested, or at least presumed. And, here, let it be clearly understood that the above statement is only correct, when what the father wishes is in accordance with reason and common sense, and when it is in perfect conformity with the office which he holds in that branch of the family; for it is an undoubted truth, that no man, whose commands will not stand the test of reason, has a right to be obeyed. There is no obligation to obey even a king, if he transgresses the limits of his rights, and injures the public good.

CHAPTER VII.

SOCIAL DUTIES BETWEEN MASTER AND SERVANT.

272. Strictly speaking, the terms master and servant have no meaning, for, between the individuals indicated by these terms, there exists a perfect equality established by God. The entity of a beggar is equal to the entity of a king, and the one has as much right to exist as the other. Nevertheless, on account of the order established by God in Nature, master and servants stand for real entities, so far as regards the welfare of society.

That society which is freely established between two persons, one of whom is styled servant, was called by the ancients, *Herilis*. In this society, the servant undertakes work, in reference to some domestic office, for the utility of another, who promises him a just recompense for the labour performed, and admits him a member of the domestic society, of which the employer himself is the head.

This head of the domestic society, in reference to the person or persons engaged in his service, is named master. The compact, whereby this society is established, is but an onerous contract formed under the following conditions: “I give, that thou mayst do;” “I do, that thou mayst give.” The difference between *Herilis* society and a simple transaction of a similar nature is this, that the servant does not engage himself for a determined work; but he places his abilities at the disposal of the master, either for all the services he may require, or for all the services of a determined genus. In this society, therefore, the servant does not simply contract the duty to work for a determined time, nor to accomplish only a single deter-

mined task for the master; but, in a certain sense, although with some reservation, and in limitation, he places himself entirely at the master's disposal. On this account, the servant is generally admitted a member of the domestic society, and, in some respects, a member of the family. Hence, as the person induced by the promise of a reward to fulfil a duty is bound to fulfil it, and as, in a certain sense, he sells himself, though not irrevocably, to perform it; so, properly speaking, we may style such a person, servant, and the one who engages him, master.

273. *The Herilis Society is a free one.*—There is no comparison between this kind of society, in which there are real masterships and real servitudes, and that which is called slavery.

In the Herilis Society, the service is freely undertaken, and freely continued as a profitable undertaking, so that in it there is nothing either humiliating or degrading to personal dignity. The servant enters into a contract with the master, and in this contract, if duly and justly fulfilled, there is on both sides an equal burden. If the servant is in a worse condition than the master, it is not attributable either to the Herilis Society, or to the compact made by him, or to the burden assumed upon himself; but it is because either the virtue of his ancestors, or his fortune, or his abilities, have been to him less propitious and less beneficial.

274. *The Duties Inherent in this Society.*—As no one is by nature obliged to establish this society, and as it is freely established; so, the respective duties imposed by it depend principally on the contract made.

The contract being once concluded, the master and servant are obliged to fulfil their respective promises, which thus become duties incumbent on both parties.

Nevertheless, we may generally assert that, in forming this society, neither master nor servant can assume a responsibility in opposition to his former obligations,

unless he be prompted by some greater necessity, or duty, in accordance with the order and the end of life.

Hence, no one can rightfully engage a person to render service either dangerous to good morals, or offensive to rights, or subversive of peace, or prejudicial to the interests of others.

275. Special Duties of Servants.—An honest service being accepted, the servant is obliged faithfully to fulfil the tasks which he has undertaken to perform. If he has placed himself at his master's disposal for every service which is honest and possible for him to render, he must be ready at once to obey his superior's command, whenever such command is within the range of possibility and honesty. Moreover, he owes respect and reverence to his master, on account of the superior position of the latter. He ought to obey him in all that has reference to the welfare of family society. Being under the jurisdiction of his master, the servant ought to submit to that mode of life which his master deems most fitting for him. And lastly, on account of his being a member of the family society, he ought to entertain for his master and the other members of the family that esteem and those feelings which are dictated by reason and charity.

276. Special Duties of the Master.—Under this head, the master has greater reason to fulfil towards his servant those common duties which he owes to all men. He should, to a greater extent, display towards him not only justice, but charity. In exercising the right which he has acquired over his servant, he must remember that he is dealing with an intelligent being of the same nature as himself, having a common origin with him, and tending towards the same end. He must remember that he is in treaty with one who, in personal dignity, is his equal, and only accidentally inferior to him, either through scarcity of means, or, perhaps, by having his moral and intellectual faculties less developed. When

correcting his servant's faults, he should use charitable words ; because, laying aside all considerations of contract and of domestic society, he speaks to an equal. When charitable means prove useless, he may dismiss the servant.

Hitherto, we have examined the duties appertaining to domestic society. We will now proceed to the consideration of those which have reference to civil society.

CHAPTER VIII.

DUTIES IN CIVIL SOCIETY.

277. **What Civil Society is.**—We have already seen what domestic society is, and how it can be formed by the union of the different individuals who live together in the same family. We have seen how this society can be the result of many different branches, all more or less dependent on its head. We have seen how, in the same branch of a family, there exists between the parents a certain union which does not exist between the children ; and between parents and children, another union, which exists neither between the parents themselves, nor between the children : and we have observed how all are together united with the head. From all this, one may easily perceive that, however numerous a family may be, its essence and nature can never be altered.

The multiplicity and greatness of the branches cannot change the nature of a tree, nor destroy its unity. When the branches are cut off, they no longer receive their nutrition from the tree, and, wherever they are transplanted, they will live a life of their own, and constitute as many trees as there are branches transplanted ; but the nature of the parent tree still remains perfect in these various branches. The same happens with families. If you

remove the unity of power which, for the time being, directs a family, and the unity of life which they all enjoy together ; and, if you give to every one of the principal branches the administration and proper government required, you may form as many families as you like, each specifically distinct. But let it be understood that these different and various families, whatever may be their number, and however far from each other their dwelling-place may be, do not, on that account, assume the nature of another society. They will always be domestic societies, multiplied in number to any imaginable extent. But, though number causes quantity of things in the same order, it does not impart to them either a new essence, or a new nature. That is to say, number would constitute only a multitude of the same things, and nothing more.

That which causes a thing to acquire another essence is the new form which it assumes, to continue its existence. Give to families a union through the power of another genus, which, without destroying them, forms and unites them into one whole, and you will have another society of a different species. Without this, they will always be domestic societies, and nothing more, in a greater or less number, and more or less near to each other ; because the number and the vicinity of the families are not sufficient of themselves to form a moral body, a whole and new society, specifically distinct.

An offensive and defensive alliance agreed to between these families against any usurper, or the reciprocal helps which, for their respective well-being, they might render to one another, would not change their nature of domestic societies ; because, notwithstanding these agreements, every family would still remain independent of the others, and divided from them. There is but one bond that could unite this social body, namely—some common power, or unity of government, which all must obey. Hence, the bond which unites all the families together, to form a civil society, cannot be any other power than that

which guides the majority of families to the acquisition of a public good.

Thus, when the majority of families, in order to defend themselves from any aggressor, or in order to acquire some common good, establish among themselves a power, which has for its end the acquisition of a common good to which they all aspire ; and when they all agree to submit to this power, and to contribute a proportionate share of the work, and of the things necessary for the attainment of their common end ; then, all these families, though remaining individually distinct, form a new and greater society, which may be called a Commune, a Borough, a Town, &c.

The nature of this society does not absolutely depend on the number of families united together, although a certain number is absolutely required, in order to possess proper organization, as we shall hereafter see. Once formed, it may, without changing its nature, augment to any extent.

278. **The Idea of a Kingdom.**—Towns and boroughs may, for their greater security, advantage, and convenience, associate together, and establish a greater power to provide for their common wants ; and they may decree some useful means to be adopted by all under its guidance, for the attainment of a greater common good. Such union of towns and boroughs, on account of the new power thereby established, constitutes another society, which is called a State, a Kingdom, or a Republic.

279. **Confederacy.**—When a State, a kingdom, or a republic, wishing to strengthen and increase its forces in order to achieve a greater common good, unites itself to one or more States, or nations ; and when another power is thus formed, with the *onus* of providing for the welfare of the dependent States, then another society is constituted, which is called a confederacy. From the foregoing, we see that towns and boroughs are formed by an agglomeration of families ; States, by the union of towns ; and confederacies, by the union of States, or of nations.

All these are societies ; and, on account of the different power which rules each of them, one society differs from another.

280. All the above Societies are comprehended under the name of Civil Society.—In whatever manner families are united together in boroughs, towns, or nations, they always preserve the same union in civil society, because all the above mentioned societies are comprehended in it. In every one of these societies the scope and aim differ from those of the domestic society ; the latter tending to the maintenance of the individual, and to his proper education. Their aim is also different from that of a religious society, which has for its end the fulfilment of all the duties owing to God, and the attainment of perfect happiness in the next life. They are, therefore, essentially distinct from one another.

Although civil societies are specifically distinct from religious societies, they are not specifically distinct from one another ; for all civil societies are established for one end only—namely, the attainment of greater temporal prosperity and welfare. They are not even numerically different, inasmuch as they form a perfect society ; because, when one advances from the inferior to the superior, the former, although remaining distinct in itself, ceases, in its genus, to be a perfect society.

The aim or object of a nation not being diverse from that of a borough, the powers to which boroughs subject themselves cannot but in a certain way interfere with the power of ruling their affairs, and thus they must keep them dependent. Indeed, if a borough were to be independent of the State, how could the State provide a greater temporal good for the borough ? We will allow politicians to discuss whether the centralization, or non-centralization of affairs be the more conducive to the public good. We content ourselves with remarking that the end of the subordinate societies being, in its essence, the same as that of the non-subordinate, they form together one and the same civil society. Hence, when

speaking of civil society, we will not examine whether it be a borough, a confederacy, or a kingdom, but we shall consider it simply as a social body, having for its end the public weal, no matter what may be either its greatness, or its special organization.

In order that we may in the clearest possible manner expound this important question, we will divide this portion of our subject into eight different chapters, and demonstrate:—(1) the nature and essence of civil society; (2) its necessity; (3) its origin; (4) its constitution, according to the diverse forms of government; (5) the origin of civil power; (6) the functions of civil power; (7) the special duties of the supreme civil power; (8) the duties of citizens as such.

CHAPTER IX.

NATURE AND ESSENCE OF CIVIL SOCIETY.

281. All kinds of societies are constituted by intelligent beings. All are working for the acquisition of an end. Each one is established by the subjection of all its members to a power guiding them to the object of their association. Hence, the specific difference between one society and another consists in its end, which is specifically different from that of another. We have before shown that a diverse end requires a diverse means, a different guide, a different power, a different mission to exercise that power, and, in its exercise, a different authority; its object being to command different things. Yet all these diversities result from the diversity of the proposed end. From this end, therefore, emanates the specific difference of the social body.

The magnitude and organization of the social body, although admitting a difference, and although the inferior orders of its body are different, cannot of themselves change its nature. Still, societies derive their name and

their nature from the end for which they are established. It is natural that their organization should be made in conformity with their end. When this is not the case, they are societies badly established; but they always remain societies of that peculiar genus, which has for its end the object which they are striving to attain; just as a house, being built for man's abode, always remains a house, whether it be large or small, clean or dirty, well decorated or altogether unadorned.

282. **Temporal Good is the Real End of Civil Society, whether it be a Borough, or a Kingdom.**—Temporal good, or the utmost well-being that can be attained for all citizens by works of public utility, forms the principal motive and end of civil society.

By the word *public*, we mean not only those people who hold a prominent position in society, but all the citizens taken collectively. Society is not established for the benefit of those citizens only who hold prominent places, and who should, therefore, be preserved and kept in vigour; but it is established for the good of all its members. If to some of them are assigned special cares and duties, this is not because society is more subservient to them, but because they are better able to advance and protect the interests of society; and, hence, their preservation is of greater importance to the public good. Perhaps the administration of public affairs is not always carried out in this manner, but, nevertheless, it is in accordance with this that things ought to be done. Society ought ever to aspire to the good of the public—*i.e.*, to the good of the entire community, or social body; the good of a social body being the good of those who form that body.

The good of civil society is not obtained in the same way as it is obtained in domestic society. In the latter, the good of all is obtained by that of each individual; whilst, in the former, the good of each individual is secured by that of all. In the family, each one works in

common ; the profits of each one's labour are common ; and the possessions are administered for the common benefit. In a word, in domestic society all are provided for, by giving to each individual his proportional share. In civil society, this is not so. Its aim is to provide, not for each member, but for the whole body. Its works are directed to the service of all, and to that end they are adapted. Its motive is the common good, useful to each member.

It is possible that, *per accidens*, or on account of their personality or condition, some people may not derive from this public good any benefit whatever. Nevertheless, it does not follow that what is done for the public is not good, since the very end of civil society is good.

The good aimed at by civil society differs from that which is the end of domestic society. It would, generally speaking, be impossible for a private family to undertake and accomplish the works whereby the public good is attained,—for example, a road to a distant place, a canal, a majestic temple, a force to keep persons and States in subjection. If a private family were to undertake such works, it would not be right that the good attained, being so necessary for all, should be reserved for its exclusive benefit. To undertake vast works of great public utility is the end of the union of families, by which union civil society is formed. As the end of civil society is attained through public works done for the public good, and as one society is distinguished from another by its own definite end, so civil society may also be called a republic. For the same reasons, the name public is given to all that has relation to it. Hence, public is the power which rules it ; public, the force which defends it ; public, every person or thing that is dedicated to its service.

283. Civil Society is directly formed by the Union of Families.—To form a society, two elements are requisite,—persons and power. Persons may concur to form a society, either immediately, or mediately, through

the concurrence of another social body to which they already belong. Such is the case in the formation of civil society, whether that society be a borough, or a State. Civil society begins by the formation of a borough, and there it might end ; but, when it passes to another and a higher association, it does not change its nature. Hence, we may assert that the elements, by which civil society is immediately formed, are families. The individuals belonging to a family must employ their labour and skill for the benefit of their own domestic society. Probably, not even for the utility of society can they dispose of their work, independently of the head of the family. Nay, union in civil society is effected for the greater interests of families, through the exertions made by each family, for the same end. What the interests of the family are, and what exertions are required to secure those interests, are not questions to be decided by any subordinate individual in it, but either by its head, or by the whole domestic body. *Ergo*, it is one body, which concurs to form another body, of another order, so as to procure a greater good. In one word, civil society is a union of families ; and even he who lives by himself, and keeps a house of his own, is considered as a family, and he may agree to form a part of civil society.

284. **The Second Element of Civil Society is Public Power.**—Power is that element which enters into the essence of every society, constituting its intrinsic form, and without which no society could exist. As regards civil society, the power ought to be not only formal, but active, energetic, and efficacious. The good, which civil society has to produce, is the public good ; and this consists in works of public utility. Every individual, and every family on which individuals immediately depend, see at once how insignificant they are, and how small a share they enjoy of the advantages produced by work done for the public good. However, whilst enjoying

these advantages, they might consider how easily, and in what way, without any assistance on their part, the public good might be accomplished. This might cause an individual to work for his own exclusive benefit. Every one might shrink from co-operating in the attainment of the desired end, excusing himself, by saying that the work could easily be done without his assistance. To counteract this dangerous feeling, it is necessary that, in civil society, there should be a power to which all should be subject, and by which all the members of the social body should be rightly moved to acquire the desired end. This power must be furnished with absolute authority, provided with all the means, and animated with all the forces necessary for the complete discharge of all its functions.

Freedom and independence, which every citizen loves, are just and good, so long as they do not transgress the boundaries of rightfully established order. When they trespass beyond these limits, then freedom and independence are absurd and pernicious. Where all struggle to be free, nobody is free. Where all clamour for command, nobody commands. If, therefore, one wishes to be a citizen, and if he desires the welfare of society, he ought to bear its burdens. One ought to be subject to the ruling power, and to think rather of obeying it, than of advising, defending, or criticizing it, without, however, renouncing his own rights, when the power does not fulfil its duties.

285. The End of Society determines the Matter of Power.—Different ends require different means for their attainment. The powers are subordinate to the ends for which those powers are constituted. Hence, to avoid confusion, it suffices that every power should keep within the limits prescribed by its end.

When there is something to be done which does not belong to the end for which one rules over others, the latter cannot be justly commanded by their ruler to do that thing, even though, for other reasons, it might be

well to have it done. The reason of this is, that the authority of the ruler is limited by its end. Society was formed for the acquisition of a determined end. To acquire this end, the one who rules has received the mission to direct those who constitute such society. As, therefore, all its members are subject to him, in all that tends towards the end desired, so, in such things only, are they bound to obey him. In all other matters, each one is master of himself, and independent of any power that has not been appointed to govern such things.

286. Civil Society does not destroy Domestic Society.—The end of domestic society being specifically different from that of civil society, it is manifest that the former, by becoming part of the latter, cannot lose its autonomy and nature; because, by simple association, individual rights cannot be lost. Hence, in civil society, each family will continue to possess its responsibility before God, Who wishes its members to be associated for a greater good. Association may, indeed, cause some modification in the use of rights, and in the fulfilment of one's duties, but it can never destroy such rights and duties. Thus, in civil society, the head of the family remains responsible for all that has reference to domestic affairs, and the members of the family preserve the same dependence on him, and maintain the same union with one another. They ought, therefore, in union with the body, and dependent on its head, to do whatever the well-being of the family demands, and to further the object which, in common with others in civil society, it is bound to pursue.

Let it be observed, before concluding this chapter, that the power of civil society does not constitute servitude, or slavery, on the part of the subjects; because public power is not dominion, nor is civil dependency slavery. The civil power is nothing else than a right, or rather a duty, to procure by means of good ordinances the common good of the people.

CHAPTER X.

NECESSITY OF CIVIL SOCIETY.

287. To enumerate all the advantages conferred on domestic society, and on all men individually, by civil society, would be a task so great, that we must leave it to the speculation of the reader. But who does not perceive the great strides and development which sciences and arts, industry and commerce, civilization and wealth, are effecting through the exertions of civil society? Who does not behold and enjoy the great advantages to health, to tranquillity, and to physical and moral perfection, which proceed from its constitution? Increased facilities in the means of transport have given an impetus to industry, and have been the cause of an increasing population. The luxuries and tastes of society, like all other objects of commerce and navigation, being subject to continual change, are constantly giving birth to new branches of industry, and are thereby increasing wealth, and widening the bounds of prosperity. All these are the effects of civil society.

If this society demands of men other sacrifices than those required by domestic society, and if it exacts extra intellectual and physical exertions, these are microscopical matters, in comparison with the immense rewards with which it recompenses them. It is, therefore, undeniable that civil society is, in itself, both useful and necessary.

288. God Wills Man to Live in Civil Society.—This statement will be found to be correct, if we examine the grounds on which it is made.

(a) God wishes men to adopt whatever is necessary for their preservation, welfare, individual perfection, and whatever, in a greater degree, tends to the development of the liberality of some, and the well-being of others, and to the maintenance of the order established.

Society, as we have seen, aims at all this; and, consequently, its existence is willed by God.

(b) Again, man is by nature not only capable of forming a society with his fellow-man, but he is, moreover, irresistibly inclined to do so. Now, man receives his nature, and all that is according to his nature, from God. Hence, if he is prompted to live in society, it is because his nature induces him to do so; and, therefore, since God could create nothing useless, He wills that man should live in society.

(c) Moreover, God has bestowed upon some men such special faculties as are incapable, in the family circle, of being thoroughly developed, and of producing all the good they might produce for the education and benefit of others. Within the family circle, they could not sufficiently display the attribute of the Creator, nor attain the end for which they received their special faculties. But men must not render unfruitful the power which they have received for a special end. Therefore, in order to develop and exercise their faculties to the utmost possible extent, and thereby to attain the end for which such faculties were bestowed, men are obliged to live in society. *Ergo.*

(d) And, lastly, in all ages, and in all places, men have united to establish society. This fact, of itself, proves that society is in accordance with reason and nature, and, hence, it must be willed by God; otherwise, nature and reason would be resolved into reason against reason, and nature against nature, which is absurd. *Ergo.*

289. **Society is the Natural State of Man.**—The natural state of man is that which is in accordance with his reason, and best adapted to his nature. The nature of man is that of a reasonable being. Therefore, the life best adapted and most natural to him is that which is according to reason, and not that which is according to his sensual appetites; for the latter life belongs to brutes.

Reason demonstrates that man is created to live in Society. Therefore, the life and the natural state of man must be social, and not savage.

290. **The Obligation of Living in Society is not Absolute for the Individual.**—Although society is the natural state of man, and commanded by God, still it does not appear to be so absolutely necessary for the perfection of the individual, as to compel each one to live in society. When civil societies are already formed, and when they produce the advantages for which they were established, it would no longer be against the order of Nature, if some individuals, without causing any evil effects in others, and believing it to be more beneficial to themselves, were to leave society altogether, and retire into solitude. Indeed, the work of those who retire from society is not absolutely necessary, because society can exist without them, as it exists without thousands of possible non-existing beings. Therefore, by quitting society, they would break neither any law, nor the order established. Nay, in many cases, to detach oneself from society is not only lawful, but virtuous, when, by so doing, one may more easily attain his final end, to which all other ends are subservient.

291. **We ought to Love our Fatherland.**—Nevertheless, it would not be lawful for a citizen to quit the society to which he belongs, and to betake himself to solitude, unless he were prompted to do so by grave reasons, and not by mere fanciful views. Fatherland is to every human being a second parent, and the duty of filial piety obliges every citizen to cherish a special love for his fatherland, to defend it against any aggressor, and to consecrate his life to its welfare. Hence, it is plain that it would be wrong for any citizen to love another country more than he loves his own, or to feel more sympathy for any other than for his own. We may, indeed, without injustice, appreciate all that is good, and noble, and beautiful, wherever we find it; and we ought

to hold in the highest esteem those who produce any work embodying all these qualities on the largest scale, or who, in themselves, are examples of all that is good, noble, and beautiful. Whilst never forgetting the excellencies of our own country, we ought, at the same time, to vie with other lands in producing whatever is best and most useful. To leave our country, simply to enjoy the luxuries, and to partake of the glory of another, would be ingratitude. If from our native land we derive our income and our possessions, let our native land have the benefit of them ; for, unless there be some good reason for acting differently, this is in accordance with justice. To the citizen we may apply all that has been said as to its being the duty of a child to remain in domestic society, and as to the right of the child to quit the family, when there is good reason for so doing.

292. Distinction between Naturalized and Natural Citizen.—So long as an individual remains a member of that civil society in which he was born, he is said to be its natural citizen.

When an individual leaves his own country, and, in a formal manner, is received into another according to its particular laws, he is called a naturalized citizen, and he shares equal rights and duties with the natural citizen.

CHAPTER XI.

ORIGIN OF CIVIL SOCIETY.

293. In striving to find out the true origin of society, we cannot prove it by a question of fact, but by a question of right. The facts of such a class belong to history, and history alone ought to establish when and how society was first formed. Science demonstrates right, and establishes that which ought to be according

to reason ; or it shows what is the cause or reason of the existence of society, and proves it, independently of the human fact. If the sciences, which, from universal ideas, deduce the existence of natural beings and permanent facts, stand in need of observation and careful study, in order that their real nature may be separated from their fictitious one, and in order to show forth either a just or a false conclusion, in virtue of a just or false predicate,—the same cannot be said of morals, wherein science has for its object, real right.

We say real right, because it is really established by God, and is not dependent on those facts which, according to it, should happen ; and because it remains ever the same, even when such facts happen differently. Although, however, this could not easily occur ; still, it is within the bounds of possibility. Hence, of themselves, such facts cannot with certainty demonstrate right. This being the case, it behoves us to establish right as the reason of the formation of society amongst men, without investigating what they did in the beginning ; because these facts would be hidden too deeply in remote ages to afford us perfect certainty, without the least fear of mistake.

Here, we must also mention that, in reference to the juridical question, when seeking the cause of civil society, we do not look for the final cause ; which, as we have said, is the temporal public good. Neither do we search for its remote material cause, which is man ; nor for its proximate—viz., families. Lastly, we do not investigate the formal cause of civil society, which is human visible power, specifically different both from domestic society, and from the end itself, which specifies societies. All that we seek is the efficient cause of civil society, since this it is which really gives origin to things. Let us, therefore, set ourselves to answer the following questions :—Who is the cause of the existence of society ? What fact produces society ? We answer :—

(1) Society exists in virtue of the human fact. (2) The fact which produces it is the human consent. We will proceed to prove these statements.

294. (1) **Society exists in Virtue of the Human Fact.**—The efficient cause of civil society, and the subject, which necessarily and immediately produces it, is man, gifted with physical and moral liberty. God, Who made men inclined to live in society, in order that they might acquire goods unattainable in the circle of individual families, has not given a formal command that all men should be united in one civil society; neither has He prescribed through Nature either the number and condition of families necessary to establish a society, or the diverse forms which it may assume; nor has He selected some from among many to hold power. Therefore, God did not Himself form society, because, neither immediately, nor mediately through Nature, did He do what must necessarily be done for the formation of society. Hence, although society is willed by God, and although it is necessary for man, as being natural to his state; still, it is not natural that a family, even though born in civil society, should belong to it. To be born in civil society is a different thing altogether from belonging to it by Nature.

Our question does not refer to the way in which a human being finds himself united to society, but rather to the origin of the fact of human society. We desire to discover who first gave existence to society, and whence the social tie originated. Our question being in this sense understood, we at once answer, that civil society derived its origin neither from Nature, nor from God, but from man. God prescribes it, and fixes the laws on which its existence depends; but the reason of its existence is to be found in the willed human fact; for from this spring forth the bond of union amongst men, and the reciprocal relations of those who are united together; hence arise titles to rights, and respective duties.

Conjugal society is commanded by God; and its essential laws, rendered manifest by the order of Nature, are prescribed by Him. Still, it could never be said that, on this account, two individuals find themselves husband and wife, with their respective rights and duties; because it is the work either of God, or of Nature, and not of their own free will, that they should unite in conjugal society and assume those rights and duties. Now, that which we stated as not being the case in reference to conjugal society, can, *à fortiori*, be stated of civil society, whose laws and forms are less determined than those of conjugal society. Hence, as conjugal society is formed by the free will of two different individuals, so, civil society is formed by the willed human fact.

295. (2) **The Human Fact which causes Society to exist is the consent of Men.**—The fact, whereby many families join together in civil society for their common welfare, is their mutual consent, expressed through their chief heads. It is the promise made by each one to co-operate for the acquisition of a common end, and to submit in all that is righteously commanded by the social power, for the attainment of that object. This promise is implicitly made by assenting to associate together. And even when a family, in freely assenting to associate, does not wish to make that promise, it is, nevertheless, bound to all that the others are bound to; because, in the consent to associate, lies the will to partake of all the rights granted by society. And, if the family wills to share the rights, it must also implicitly will to perform the duties; because, by desiring the end, one must necessarily desire the means whereby to attain it. But, as this tie of unity with other men, these rights and duties, are not innate in man, they must come to him through the human fact; but the human fact is the consent given and adhered to, for the association. *Ergo.*

296. **Various Modes of Consenting to Social Union.**—

Consent to join in social union may be rendered explicitly manifest in the agreement or compact made between themselves by many families, for their common welfare. The compact still subsists, even when the heads of the families who made it are dead ; because, by their death, the families are not destroyed, but they live through father to son, who continues as the real subject who made the agreement.

Consent to join society may be made by simple aggregation to a society already formed, or by establishing one's dwelling-place in the midst of families already united in society. Because, by being allowed to share in the public good accruing from its social institutions, one must, it is presumed, subject himself to the duties and burdens inherent in society.

Lastly, besides in many other ways consenting to join society, families may express consent by submitting themselves to a chosen director, by whom they may be guided to the acquisition of the desired good.

297. **Without the Consent of the Parties, there cannot be Civil Society of Right.**—Whatsoever be the modes, whereby consent to become a member of society is given and obtained, it is certain that, without such consent of the parties, there cannot exist a society of right—*i.e.*, a society in which the members who form the moral body have the right and duty to be united and to remain so, for the acquisition of the same end, under the direction of one head. Men, as men, are all equals. By nature, there is no reciprocal dependency, except that which, by their consent, they have together formed. A person may dispose of his liberty and personal dependency to others. He may be in want of help and advice, and may even be compelled by law to seek it. Nevertheless, no one has a natural right to impose upon him, and to make him subject, even though it might be for his greater good ; because man, by nature, is free and independent, and God wills that everything be respected, in the order

in which He has placed it ; and, moreover, a good thing done by violence cannot be good. What is here said of one person may be said of every individual, and of every single family. However great be the intellect, the power, the riches, and the special gifts, either of an individual, or of a single family, neither the one, nor the other has any right whatever to cause another individual or family to be dependent. Since we are all equals, no man can say to another, "Thou must obey me." What right has any man to say, "Because I am richer, and more learned, &c., thou must be subject to me?" We are all free and independent. Neither knowledge, strength, nor riches, can give to their possessor any jurisdiction over him who possesses them not.

On the other hand, if a man were to make to his equals such a proposal as the following :—"If you like to place yourselves under my control, I will do my utmost to promote your happiness, &c."—then, on the consent of his equals being obtained, society would at once be established among them, on account of the reciprocal compact agreed upon. This compact would establish among them that union of rights, from which spring forth superior, and subject, and the juridical power which unites all subjects in one moral body. Therefore, it is only by the consent of the parties that civil society of right may be formed. On the contrary hypothesis—viz., that consent be not required—every imbecile would have as much right to be the head of society, as any king or queen has ; for, in his nature, he is equal to them.

298. **Without the Consent of the Parties, there can be a Society of Fact.**—This happens when a powerful party assumes the direction of public affairs, and causes all, even though against their feelings, to be subject to it; as when a victor in war subjects to his power the conquered people. Thus, families and people may, without their consent, become members of a society; because civil society, or the union of many families, is realized

and subsists, in virtue of a public power which moves and directs all the members, so as to attain the end of their union. At the same time, it is not necessary that this power should be a lawful one, or that those who really govern should have a real right to do so. When there is a moral force which moves all the members of the social body, whether this force proceeds from the fear engendered through physical power, or from obligations and interests common to all, there exist the elements necessary for the formation of a social body; for there is the form which invests the whole matter, governs it, and unites it into a whole or moral body, and makes it a society of fact. Therefore, without any consent of the parties, a society of fact can exist.

299. **The People of a Society of Fact ought to obey its Orders.**—Persons, or families, or people, compelled by force to be subject to a society, do not only constitute society, but they are also obliged to fulfil the laws of public utility emanating from it, to observe its established order, and to remain in its union, so long as the impossibility of being able to join a better society exists. In fact, these conquered people are commanded by God to aggregate themselves to civil society, and, for their own greater good, to submit to the direction of a public power. Hence, when, even through the abuse of power, such a fact occurs, and when, in any way whatever, they are placed in society, they thereupon find themselves in a system of life according to Nature; and, if according to Nature, it is manifest that they ought to follow the order of that society. Therefore, society being the state in which they ought to live, it would be wrong for them to shun it. They would also err, if, in order to return to an independent state, not according to Nature, they were to break the union. When once united to a society, they are in an order willed by God in Nature; but to recede from the order in which one is placed is to act against duty, and to act against duty is evil. There-

fore, they ought to live in that order, or society, of which they are constituents; and, even if a person, in calling me to order, himself break the laws of the order, I should not be justified in quitting it, on the ground that he had failed in his duty.

The obligations which bind conquered people to obey the laws of society, and to conform themselves to everything necessary for its welfare, do not come to them in virtue of the civil power, but from the command of God Himself. In this case, these obligations, emanating from God, spring from the law which directs every one to do good, both for himself, and for others, and also from the law whereby everybody is bound to uphold justice. In fact, it would not be just, that people, who are, without their consent, subjected to a power, should partake of all the advantages of a society, without taking upon themselves the obligations of fulfilling the laws, and of bearing the common burdens. The laws must, of course, be just; for unjust laws never involve any obligations. Still, the justice of laws is not shown forth either by the legitimacy of the power, or by their correspondence with the end of society.

300. **Families have the Right to Emancipate themselves from the Society of Fact.**—The reason of this is, because they are under no social obligations either to those persons who have subjected them, or to those families whose society they were forced to join. God commands us to live in society, and this command is fulfilled, either whenever, wherever, or with whomsoever, we join it. It is one's duty to live in society, though not absolutely in that in which he finds himself. It is one's duty to be subject to a power, but not to absolutely recognize the government imposed upon him. One ought to obey his government so long as he is under it, but it is not his duty to remain under it for all time; for, by becoming subject to it, he did not lose his own individual liberty and independence. Were a person, by being conquered, to lose his freedom and liberty, this would be a sufficient

reason for him to endeavour, by opposing force to force, to regain it. God does not exact of any one to remain in that society, or under that power, to which he is not bound either in virtue of implicit, or explicit fact, or in virtue of immediate, or mediate fact.

Hence, families may quit one power in order to join another, wherein they may obtain a greater good. And although, in practice, one has the full right thus to emancipate himself, yet it often proves to be very difficult of accomplishment, especially when, by so doing, the rights of others may be violated. Hence, if emancipation from a society of fact is, in itself, lawful, let it be gained with prudence, honesty, and justice, and by the adoption of the best means.

301. Society of Fact becomes Society of Right by subsequent Consent.—The right belonging to the members of a subjected society, opposed to the society and power set over them, would be absolutely lost, if, either directly or indirectly, explicitly or implicitly, they should consent to form part of the dominant society. This may very easily happen to those families which, before being subjected, had amongst them no civil society, or which, by being subjected, found their society either altogether destroyed, or divided to such an extent as to be placed beyond the reach of possible restoration. In such cases, both the duty which they have to join society, and the need of sharing all the advantages of a society already existing, compel them to become members of it. To continue to remain passive under the good and evil which come to them by force, is not in conformity with their interests. Therefore, by spontaneously uniting their own will and efforts to those of others, they ought to take an active part for the easier attainment of the public good. When either this implicit, or explicit will is manifested, the subjected members are united in a perfect society, which is no longer a society of fact, but which, in virtue of the consent absolutely necessary for its constitution, is a society of right.

CHAPTER XII.

DIFFERENT FORMS OF GOVERNMENT.

302. The individual is the first and simplest element of society. Man is not alone in the world, nor is he born to live alone. Besides what he is in himself, he is a part of the great scheme of the universe; and besides the destiny which belongs to him in the vast plan of the Creation, he is raised by his Maker to another sphere, above all earthly thoughts. The sense of man's dignity is deeply engraven on the heart of society. Everywhere we find written in striking characters this truth: "Man, by virtue of his title of man, is respectable, and worthy of high esteem and consideration."

In man, as in the universe, there exists a most wonderful unity. All the faculties of man bear to one another the most delicate and intimate relations. The movement of one cord in the soul causes all the others to vibrate. Such ought likewise to be the constitution of civil society. Hence, as in the individual the diverse disposition of the bodily members, and their diverse offices, impart to the body a diverse organization, and form the constitution, so, in society, or in the moral body, its proper constitution depends on the manner in which its parts are organized, and in which they concur in the diverse operations constituting the vitality and the nature of the body. As one individual differs from another, so, for a diverse end, there is required a diverse power. It is, as it were, a different soul which causes society to be of a different species. In the same specific society, a diverse manner of exercising its specific power imparts to it its diverse constitution.

We will not here discuss the teaching of certain philosophers of the eighteenth century, who maintained that the king was the natural enemy of the people, and that his power ought to be either totally destroyed, or at least

so far limited, that he might only appear on the summit of the social edifice with his hands tied behind him. He was to be invested merely with the faculty of approving the measures of the people's representatives. Let it suffice to say that such teaching produced upon some European societies the most fatal effects.

Our duty is to lay down certain and undeniable principles, prompted by reason alone, and according to which the universal society, with its numerous divisions of States, nations, kingdoms, republics, and boroughs, should be ruled and governed, for the acquisition of the greater public good.

303. **Diverse Forms of Government.**—The person or persons invested with the power of directing society, are named the subject of power, or simply the power of a nation. This power, as exercised for the guidance of society either by the subject himself, or by him through others, is styled government. Hence, government is the social power in its exercise. The diversity of the subject invested with the public power, or the diversity of the power in the concrete, constitutes the diverse forms of government; and these are in turn modified by the diverse mode, whereby the same subject of power fulfils his functions.

The different species or forms of government are generally reduced to three:—viz., **Monarchy**, **Aristocracy**, and **Democracy**.

304. **Monarchy** (from the Greek, *μόνος*, alone, and *ἀρχός*, chief) is that species of government wherein the supreme power is lodged in the hands of a single person. The individual thus invested is variously styled. He may be either a monarch, a king, a sovereign, an autocrat, or an emperor. Holding in himself supreme power, he is superior to all others. It is his right and duty to guide and rule his entire kingdom; and his will, when manifested, is a law unto all his subjects.

When such an individual as this abuses his authority,

and deviates from the laws of common justice, he is called a despot, or an autocrat. Again, were he to hold this absolute power unlawfully, and without having a right of succession, or a mission ; and were he, either righteously, or unrighteously, to use it for the oppression of his subjects, he would be styled a tyrant.

305. Aristocracy (from the Greek, *ἀριστος*, best, and *κρατειν*, to rule), is a form of government in which the supreme power is vested in a privileged order of people, conspicuous for learning, probity, and wealth. The body formed by all the members of this species of government is styled, senate, college, &c.

When this power is in the hands of a few, who either abuse their authority, or exercise it with violence, it is better to style it an oligarchy, or despotism.

When the aristocrats, in whom the supreme power is invested, are either the members, or the heads of some determined families, in which the right to hold such power is hereditary, the form of government is essentially different from democracy. But, if such members were to be elected by the people, and were to possess such personal rights, either for a determined time, or for life, then this form of government would, in substance, be the same as democracy.

306. Democracy, or Republic (from the Greek, *δῆμος*, the people, and *κρατειν*, to rule), is a form of government in which the power resides in the collective body of the people, who conduct the government by representation and delegation. As he who commissions another to do a thing may be said to do it himself, so, in this species of government, it may be said that the power resides in the people. In fact, those who have a right to depute others to take part in the direction of the public good, do themselves indirectly exercise a social right and influence in the government of society. Since those, who directly and positively rule, are elected and deputed to do so, they act as commissioners or agents ; and only

to such an extent can they act, as is determined by the commission ; or rather, they can act solely according to the fundamental laws to which their commission is restricted. Hence, we may safely state that, in this form of government, those who depute others to rule are themselves the subject of power. And if they are not the proximate, they are at least the remote subject of power ; or, because they produce in others the immediate subject of power, they are themselves the subject of it *in causâ*.

Thus, a democratic form of government may also be called a **Republic** or **Commonwealth**, as being a State in which the sovereign power is exercised by representatives of the people.

Mixed Forms of Government.—Besides the three forms of government already mentioned, there are others which spring from certain combinations of those forms ; and they derive their names from the diversity of the simple forms which together constitute them.

If the supreme power reside in the monarch in one respect, and in democracy in another, so that neither the former, without the consent of the latter, nor the latter, without the consent of the former, could constitute a law, this species of government would be styled a **temperate monarchy**.

Again, if the two forms of government, **aristocracy** and **democracy**, combine to form only one mode of government, and if, in the making of laws, they depend on each other, there would arise a form of government, termed **aristo-democracy**.

Lastly, if the **monarchical**, **aristocratical**, and **democratical** forms of government combine to constitute only one subject of power, the resulting form would be styled a **constitutional monarchy**.

Whatever be the number of the different beings who together hold the supreme power, all philosophers agree that, ordinarily, not the majority, but the unanimous will of the various subjects of power should become a law

to the entire social body ; it being understood that the will of everybody is the will of the majority. This majority ought to agree in wishing the same thing, in order that a project may become a law unto the whole society. That is to say, a projected law, in order to become an effective one, ought to be approved and willed by the senate, parliament, and sovereign. By the non-adherence of any one of these three, the project of law would remain a project, and not a law to the members of society.

307. Only the Heads of Families can concur to form a Democratic Government.—Those also are considered as heads of families who, in domestic society, are bereft of children, and those who, being bachelors, live by themselves independently of others, and keep a separate household. Every one of these individuals can immediately take part with others in the formation of the social body. For, as the work, and the things necessary for the public good, are to be administered by the families forming a society ; and as, strictly speaking, the father is the real head in the administration of all the family affairs ; hence, to him, and not to the children, does it belong to share in the management of the public good ; because the public good is not alien to the good of his family. Moreover, children are dependent on the father, and, as such, they have neither mission, nor right, to administer the goods of the family ; because, being subordinates, they cannot, before being emancipated, administer even their own goods.

Nevertheless, according to the special rules of societies in general, only those heads of families are allowed to concur in the formation of the social body, who directly contribute to the public good. Reason teaches that he who does nothing for the welfare of the public should have no right to meddle with its constitution. What right, pray, has a man to wish for such and such a disposition of the public good, if he neither supports it, nor

contributes to its attainment? All that he can do is, to quietly partake of the benefits accruing to him from works of public utility, and to leave to those who bear the burden, all active participation in forming, constituting, deliberating, and resolving upon everything that pertains to the public weal. We need scarcely mention that the directors of these public works should not consider the convenience and welfare of those only who contribute, nor of some special families, to the disadvantage of such as do not share in the works. Justice forbids this. Public good is styled public, because it is a good to all the members of society, whether they concur in its formation, or not.

One may, in many ways, co-operate in the formation of the public good—*e.g.*, by contributing his labour, means, taxes, &c. In countries where conscription is part of the law, those families whose children serve in the army likewise contribute to the public welfare. Thus, they too acquire the right of intervention in the formation of the social body; for they contribute, not simply money, but their very blood, which is oftentimes poured out in behalf of the nation. We mention this, because there are some who, differing from our opinion, would teach that the right of intervening in matters relating to the social body is acquired, only by the payment of rates and taxes.

308. **The House of Commons.**—It is certain that all the families of a democratic society, that have the right of intervention in the public good, cannot immediately concur in its direction; nor can they all govern society together. This we shall hereafter demonstrate. They can, however, depute certain persons to do what they themselves cannot possibly do. For this end, the entire social body is generally divided into counties, provinces, towns, boroughs, &c. Every borough chooses a representative, called a member, or deputy, and sends him to the House of Parliament, where, in conjunction

with his fellow-deputies, he takes part in the formation of the laws of the country, and in the government of society. The assembly thus formed becomes the subject of public power, and it may be styled the House of Parliament, the House of Legislature, Government House, the Chamber of Deputies, &c. In the formation of such bodies, the will of the majority of the rightful electors constitutes the deputy, and the will of the majority of the deputies constitutes the law. Like all other societies, parliament could not exist without its head; and he, having been duly elected by a majority of the members of the House, becomes its president, or premier.

Such is the nature of things, that the greater number prevails over the less, and that the greater part carries along with it the minor. Hence, the will of the majority becomes law for the social body. For, when things are not differently disposed, it is in accordance with reason that what is willed by the greater part of its members, should be willed by the whole parliament. But parliament is the subject of power; and what is willed by the subject of power is law; therefore, what is willed by the majority of the House of Parliament becomes law.

We need not here repeat that this will, in order to become law, should be according to justice; for this is a condition from which no established power on earth can be dispensed. But if, in order to become law, the will of the majority must be just, it does not follow that the will of the minority must also, because it is just, become law; because it would not emanate from the subject of power, which, as we have said, resides in the majority. Moreover, let it be remembered that, in mixed forms of government, a project of law can become law, only when it is willed by all the diverse bodies forming the subject of power. For instance, if the government consist of king, lords, and commons, a project of law, to become law, must be willed by each of those bodies.

309. In every Society there must always be in Action a Subject of Power.—Whatever be the form of government of a constituted society, it is absolutely necessary that there should be in it a determined subject of power which, by exercising its authority, may retain all the members in that dependency in which the essence of society resides, and may impart to the social body that direction and motion by which the life of society is realized. Without a concrete power, and a visible being, exercising perfect authority over the whole social body, such society would be lifeless; because its matter would lack its substantial form, which is its soul. Without form, no being can subsist; and without a soul, nobody can live. We do not here mean to speak of the quantity and quality of the force of this power; or to say how it ought to command and lead society. All that we maintain is, that society, in order to exist, necessarily requires the subject of power to be capable of forming laws, and of compelling its members to observe them.

310. The People themselves cannot be the Immediate Subject of Power.—The opinion, held by many in this nineteenth century, that the subject of power results immediately in the people forming a nation, is absurd and anti-social. To say that the whole society is the power, is to say that the head and members of a body are the same things; or, more clearly, that the king and the subjects of a nation are the same persons.

Society is a real entity, a living and active being, composed of matter and form, of body and soul; but the body cannot be the soul, nor the soul the body. The form and soul must be in the body, that it may exist; for its vitality consists in the soul. Hence, just as a man, when his body and soul are separated, is lost to society; so, society would be lost, if the principle of its vitality were lacking; and this principle resides in

the power, which is the form of society. To say that the concrete power is really inherent in society, is different from saying that the concrete power is the society itself, or the people forming the social body. The first case we admit as a necessity; but the second is an absurdity.

Society ought to govern itself, otherwise it could not be a perfect society. The different parts of society cannot govern themselves independently of the others; because social union would, in that case, be destroyed.

All the parts cannot simultaneously govern and direct society; because, if all are commanding, where is the subject? There could thus be no organization of the social body. Such a society would present the appearance either of a great head without a body, or of a great body without a head. In it every one would be at the same time both the head and the members. To constitute society, it is necessary, as we have said before, that there be a real, substantial, and concrete form, uniting together all the different families, and causing them to be parts of a whole, or members of one body. If the multitude, or people, were to be the subject of power, this form, so essentially necessary, would be deficient. Therefore, without a determined subject of power, independent of the people or multitude, that cannot be the subject, society cannot exist.

Moreover, the concrete form, or concrete authority in directing society, cannot be God; because He, of Himself, does not choose to directly govern society, as He Himself did not even constitute it.

Paternity, sovereignty, sanctity, are derived from God only. Nevertheless, He has commissioned man to perform, in His stead, all those functions that have reference to the things which are derived from Him. Man, therefore, being invested with a relative power, visibly takes the place of God in domestic society, as a father; in civil society, as a king, or ruler; and in religious society, as a priest, or minister. Hence, it is only among men that

we must find the subject of power, to direct any kind of society towards the acquisition of some greater public good. But, as we have proved, the multitude, the people, society itself, cannot be the concrete subject of power. Therefore, it must be found elsewhere.

311. Not to Admit the above Principle is to constitute Anarchy in Society.—Anarchy (from the Greek *a* privative, and *ἀρχός*, a chief), signifies a multitude of people without a head, and includes the idea of lawlessness and confusion. Such a multitude of people could not be a society; because therein the supreme power in action, which is the essential constituent of society, could not be found. Although anarchy involves in itself the idea of confusion and lawlessness, yet there may be anarchy without any such evils as these; for men are always men, unless a bad education has caused them to sink lower than the very brutes. It is possible that, when left to themselves, they might still be conscious of their individual and reciprocal duties and rights, and that they might maintain them in the domestic family dependent on its head, and in reference to other families. If these individuals and families know what belongs both to themselves and to others, and at the same time respect it, there is nothing in their anarchical principles to be absolutely reproved; because, in such a state, they may still continue to be good, peaceful, and amiable, and to render mutual respect and assistance. Yet there could be no society among themselves, because the efficient cause of society would be wanting—viz., the concrete power, the public power, the head.

312. Evil Effects of Anarchy.—Although we have proved that anarchy may absolutely exist without lawlessness and confusion; practically, however, it soon degenerates into popular license. Thus, the people lose every principle of duty, and of respect for the law. They are easily led to transgress the bounds of true liberty, and to act without any consideration for the

rights of others. Nay, popular license oftentimes reaches such a climax, that the rights of others are violated under the outrageous pretence of making laws, and of governing the weaker part; and even a species of government is formed, in which the multitude and its roughs hold sway. This sort of government is called *ochlocracy*.

A powerful nation may degenerate into *ochlocracy*, whenever the concrete power of society expires in it, through the wickedness and corruption of its members. Men generally seem to be inclined to follow rather the dictates of passion, than of duty. Let the public force decay, and, by their deeds, they will quickly prove their nature. The rebellious examples of a few will be followed by hundreds of thousands; their unlawful associations will be multiplied; the genesis of their crimes will begin by bloodshed and rapine; and society will be left in the midst of confusion and misery.

The history of past ages corroborates this statement. To take one example out of many, we need look only at France in the past century; and we see that, by her deifying the leaders of irreligion, the most sacred rights were trampled under foot, the temples of God were desecrated and overthrown, and the streets were watered with the blood of His priests, mingled with that of the nation's best and noblest citizens. In times of anarchy, the only emblem recognized by the people is Atheism, as it goes hand in hand with license.

This folly has borne its fruits in recent times, and has spread its fatal contagion far and wide. The new order of things has been inaugurated by sacrilegious crimes, and by attempts upon the lives of emperors, kings, and queens. But enough: as we are not historians, but philosophers, we will be content to make only one other remark. Anarchy prevails because, for the most part, people are ordinarily prompted to obey the voice of passion, rather than that of reason. Self-interest becomes

in them more powerful than duty ; and license, which considers everything obtained by force to be right, is substituted for liberty, which rejects force against the use of right.

313. Which is the Best Form of Government ?— From what we have said about anarchy and its twin offspring,—ochlocracy and license,—it is easy to infer that, were they to be styled governments, they would be of the worst species. Indeed, any form of government, however bad, would be comparatively better than those forms. A society must necessarily have some species of government or other, and when the best cannot be had, the one already existing should be ameliorated.

Before declaring which is the best form of government, and which the most consistent with the inconsistency of people and of nations, let us examine the following predicate. With religion and morality, all forms of government can be, and are, good. An absolute monarch, imbued with religious ideas, surrounded by counsellors of sound doctrines, and reigning over a people amongst whom such doctrines prevail, can effect the happiness of his subjects. So far as circumstances of time and place permit, he will be sure to render them happy. On the contrary, a wicked monarch, or one surrounded by wicked counsellors, will do harm in proportion to the extent of his powers. He is even more to be dreaded than revolution itself. He is better able to arrange his plans. He can carry them out more expeditiously. He has fewer obstacles to surmount. He can assume a greater appearance of legality, and make more pretensions of public utility ; and, consequently, he can be more certain of success, and of permanent results. Revolutions cause great evil to society ; but persecuting and tyrannical monarchs may effect quite as great, if not greater, evil. If irreligion and immorality are seated on an absolute throne, or if they hold under their sway the mind of its occupant, his power to effect

evil is unlimited ; and nothing is more horrible than the omnipotence of wickedness. When society is virtuous, moral, and religious, we can form an idea of a government, more or less free ; but, when these conditions are wanting, we can form no such idea. In the latter case, the only sort of government that remains, is despotism. This is the rule of force ; because only force can govern men who are without conscience, and without God. Let us remember that like causes produce like effects. When moral influence does not exist, its place must be supplied by physical force. If the sweet yoke of morality be removed from the people, government can have recourse to nothing but the vigilance of the police, and the thrust of the bayonet.

The whole question is comprised in a few words. Can monarchy, aristocracy, and democracy, be each and all legitimate and proper ? Yes. What considerations guide us in our decision, as to which of these forms, in any given case, is legitimate and proper ? The consideration of existing rights, and of the condition of the people to whom the form is to be applied. Can a form once good, become bad ? Certainly it may ; for all human things, being finite, are subject to change. These reflections, as solid as they are simple, will prevent all excessive enthusiasm in favour of any particular form of government. This is not only a question of theory, but of prudence ; and prudence does not decide, before having attentively considered and weighed all the circumstances of a case. Those who are labouring to establish political liberty on the ruins of morality would do well to consider the following argument.

How would you have the people to exercise exclusive rights, if you disqualify them by perverting their ideas, and corrupting their morals ? You say that, under representative forms of government, reason and justice are secured by means of election ; and yet you labour to banish reason and justice from the bosom of that very

society in which you talk of securing them. A good social body cannot be formed of bad members. But immoral members are bad ; and, if religious ideas be eradicated from the mind, morality cannot exist. Therefore, in such a case, any species of government would be bad.

Leaving aside all other forms of government, we will only ask, which of the three forms—monarchical, aristocratical, and democratical—is the best for a nation ; for each of these three powers presents itself to contend for the direction and government of society. They are certainly not equal, either in force, in means of action, or in practical intelligence. Nevertheless, they all command our respect, and, as they all have pretensions more or less decisive, not one of them is without the probability of obtaining the object of its contention.

Generally speaking, we may affirm that the form of government which possesses a special right of existence, and by which the people are accustomed to be governed, will be the most useful to the nation. For, in virtue of its own legitimacy and antiquity, a government has a right, as a certain fact, to be respected and venerated by the people whose life is ruled by it ; and thereby, also, subjection and obedience are rendered more easy, and more spontaneous.

But, laying aside right and custom, and examining this question on the part of the morality of the people, it seems that, for a religious and civilized nation, which understands right and duty, and which respects and venerates the ruling power, a limited monarchy, or even a democratic government, might be the most useful. This appears to be the case, because the will of such people being, through education and conscience, disposed to what is just and well ordered, a plurality of power may assist them to discover the best means of attaining the public good, without violating private right. It is quite natural that the end should be more easily attained when it is being aimed at by all. Moreover, in the

democratic government, since the means most conducive to the public good are adopted by the whole council of men forming the power, those means are also more willingly accepted and worked out by all the subjects. Lastly, when the people are imbued with religious feelings and good morals, a monarch, if his sway be unlimited, is more liable than a democratic power to become despotic.

On the contrary, if the people are immoral and irreligious, a pure monarchy is the best for them; because, in such a case, the government of one individual would more speedily effect the public good, than the government of many. The monarch, considering the abuse of his power to be a dangerous thing, would, in order to win the obedience and subjection of his people, endeavour to do his best for them. Moreover, in this case, as the multitude would be less capable of agreeing as to the government of things, it would feel a greater need of being directed. Lastly, for such people as these, the best form of government is a monarchy, because this is the most capable of resisting by force those who do not act according to reason, and who strive to introduce into society discontent and disorder.

To conclude this question, let it be understood that, after all, it is not the form of government, possessed by the people for their direction, which enhances the public good, but it is rather the civil and religious education of the people, which alone can dispose them either to govern well, or to be well governed. With this, every form of government is good; without it, all forms are bad.

CHAPTER XIII.

ORIGIN OF CIVIL POWER.

314. We have now to solve a question, which, though very simple, has, through being misunderstood by many

philosophers, given rise to great conflicts. Simple as it is, it has become difficult to the unlearned. Rousseau, the philosopher of Geneva, by not distinguishing between the moral and the physical power, fell into a great mistake in treating of this subject.

The question refers to the moral being, called power. In the moral order, illegitimate power is not power; it is not a being; it is nothing; and we agree with others in this, that it cannot come from God. But, as a moral being, it emanates from God, the source of all right, justice, and legitimacy, and the plentitude of all beings. Only an atheist can call into question this theory. A believer in the existence of one Supreme Being cannot but admit its truth.

In order to form a clear idea on this subject, and to prove our statement, we will resolve the three following queries:—

First.—From whom proceeds that authority which accompanies the will of a person, and imparts unto it the force of command, when rendered manifest to the people, causing them, through duty, to conform themselves to it?

Second.—From whom comes it, that such and such a person should be constituted the head of society, by possessing the power and authority which cause his words to have the force of command?

Third.—From whom does it proceed, that a man, possessing the authority of command, should either extend, or restrict his jurisdiction; or rather, from whom is derived the matter on which the power is exercised? When the question is thus divided, and when what we mean to speak about, in seeking for the origin of power, is once established, all the difficulties of such an intricate problem will vanish. The difficulties of this problem are due to the confused way in which philosophers apprehend the question. Destroy this confusion, and the unconquerable truth will be revealed. Hence, we proceed as follows.—

315. **The Authority of Command proceeds from God.**—By proving this statement, the first question will be answered. We will reason thus. Man was not created to live alone. His existence supposes a family. His inclinations urge him to form an alliance, without which the human race could not be perpetuated.

Families are connected with each other by intimate and indestructible ties. They have common wants. Without the aid of others, no one can ensure either his happiness, or even his preservation; therefore, he is bound to enter society. Society cannot exist without order, nor order without justice; and both require a guardian, an interpreter, an executor. This is what is called civil power. God, Who created man, also willed his preservation. Consequently, He willed the existence of society, and the power which it requires. Now, the existence of civil power is as conformable to the Will of God, as is the existence of paternal power. If families have need of paternal power, society has no less need of civil power.

Paternal power is from God, and Nature itself has pointed out the persons in whom it should reside. The wants of the family mark the limits of this power; the feelings of the heart prescribe its object, and regulate its conduct. The infant weeping at its mother's breast reminds her of the obligations of nourishment, and of watchful care on her part. Women, weak and unsupported, call upon men to protect them and their children. Youth, without strength to sustain, and knowledge to direct itself, appeals to parents for provision and guardianship. The Will of God we clearly perceive; the order of Nature forcibly expresses it. The tenderest feelings are its echo and interpreter. We require nothing more to show us what God's Will is. We need no further argument, to convince us that the parental power is from above.

But, if parental power is from God, this leads us at

the same time to discover, that from Him also is derived the civil power. Indeed, was there ever a man who found himself, by natural right, invested with civil power? It is clear that, if this were so, power would have no other origin than paternal authority; that is to say, it would be a transformation of domestic into civil power. But between parental and civil power there exists a vast difference. Their object is different, their means of government different, and their end likewise different.

We do not deny that the type of society is found in the family: and we admit that society is in the most desirable condition when, in command and obedience, it most resembles the family. Yet, between the two, there would exist only some analogy, or resemblance. But mere analogies do not suffice to establish rights; and it must always remain indubitable that the rights of civil power are not to be confounded with those of paternal power.

On the other hand, the nature of things declares that Providence, in ordaining the destinies of the world, did not establish the paternal, as the source of the civil power. Indeed, we cannot see how such a power could have been transmitted, and the legitimacy of its claims justified.

The theory which acknowledges the paternal, as the origin of the civil power, may be as promising as can be desired. It may sustain itself on the example of the patriarchal government which we observe in the cradle of society. Yet, it is opposed for two reasons.—*First*, because it asserts, but does not prove. *Secondly*, because it has no means of attaining the end for which it was intended—viz., the consolidation of government; for it cannot establish itself by proving its legitimacy. The greatest of kings and the humblest of subjects are equally aware that they are the sons of Adam. But two sons are in the order of equality; and the order of equality cannot produce the right of supremacy in one

over the other. Therefore, civil power cannot spring from domestic power.

Civil power cannot be the production of simple force, even multiplied to a greater extent; because force, in itself, is incapable of producing the right to command, or absolute authority. That which produces duty is the force emanating from authority. But the right or authority of each man over others is represented by zero; and an infinite quantity of zeros equals nothing. Therefore, as physical force cannot produce absolute right and authority, it follows that, though multiplied *usque ad infinitum*, it will always be resolved into this formula, $0 \times 0000 \text{ ad inf.} = 0$. Therefore, civil power cannot be the production of physical force.

Woe betide those societies whose existence depends on no other government than that of coercion, or physical force. History, reason, and experience, confirm this statement—viz., that force oppresses and compels men to act, as it compels brutes; but the wills of the people it does not unite. To attain this unity, proper authority is required.

Of himself, man possesses over another no authority of command, either absolute, or relative. God alone has an absolute right over all men. He, therefore, is the final reason of a binding law, the source of authority, and the cause which produces duty. But, were God to communicate unto a human individual some of this absolute authority, that individual would, by way of participation, possess over others authority and command. Hence, one man cannot morally command another, unless he be constituted by God to do so. Without this Divine concurrence, the command of man would produce no moral obligation, no duty. Without it, the civil law would remain either an allurement, or a menace; obedience would be a mere calculation, and order, a matter of interest. And, as interests are as numerous as citizens, each one, without regarding his neighbour's

welfare, would be striving for his own ; and thus disorder would be the legitimate issue of order. A power, constituted without authority from God, is a powerless power. Hence, an Atheistic government cannot but be powerless. It is a government which cannot govern, because it is unable to give a good reason for its authority, and because it cannot show why its subjects should do, or not do, its bidding ; and, as it is incapable of moving their will with the same force, it cannot cause them all to strive for the same end. Such a government can produce no moral tie, whereby its subjects may be bound together in unity. This force, which moves, binds, and benefits all, cannot but come from God. Without God, a government is not a power, ruling by authority ; but it is an overwhelming party, compelling by physical force. A true philosopher cannot but recognize the truthfulness of such a statement. Let the Atheist lay aside his endeavours to discover the origin of society. He strives in vain. He will never succeed in his efforts.

In conclusion, whatever be the constitution of a society, whatever be the form of its government, and whoever be the subject of power, it is certain that its authority, in order to produce duty in its subjects, must come from God. Were it otherwise, then law, authority, and command, would be mere words, signifying nothing.

316. **The Civil Power is generally constituted by Man.**—If the authority to command comes solely and always from God, still, the conferring of this authority upon some individuals in civil society remains not with Him. We do not mean to say that God cannot confer it. He can, if He choose. But, according to the order of things, the election of a person, or persons, to be the head of civil society, and to hold the power essentially necessary for its existence, rests generally with men. Sovereignty, or public power, cannot be obtained by right, until a people, in need of being governed,

speaks through the heads of the families participating in the public good, and, either implicitly, or explicitly, says to a person, “Guide us;” “Reign;” “Be our head, and to you we promise our obedience.” Personal abilities, pre-eminence of intellect, wisdom, wealth, prudence, and strength, cannot of themselves, either by right or nature, constitute their possessor the head of society. They render him eligible; and when the individual who possesses those qualities is elected by the will and consent of the people, he is at once, and by right, the head. He is thereupon invested with power to command. He can form laws for the direction of his subjects; and his subjects are bound to obey him.

The jurisdiction, held by the head of a very numerous family, does not entitle that head to govern either less numerous, or less powerful families; because, outside his own circle, his power is equivalent to zero. Paternity is not to him an acquired property, nor a title, which, with its correspondent rights, he may leave to his posterity. It is something belonging to his own personality,—an innate right which dies with him. Hence, when he is dead, all his descendants, even though they be heads of separate families, would find themselves in a state of perfect juridical equality. No one can produce either title, or right, to be the head of other families than his own, or to direct them for the common good.

Between brother and brother, there cannot but exist perfect juridical equality; and this equality is called brotherhood. No one, therefore, can be the head; no one can be invested with power to direct others, unless such power be conferred upon him by the consent and free election of others, who, while choosing him to guide and direct them, promise, on their part, to obey him, and to subject themselves to him, as to their head.

In conclusion, the authority to command proceeds from

God; but the election of the individual, in whom such authority is to reside, belongs to men; and they, by freely and duly electing him, acknowledge themselves to be his subjects.

317. Amongst many who are Eligible, the one who is most Worthy ought to be Elected to hold the Civil Power.—The heads of families, who possess the right to elect the head of society, ought not in their choice to be guided by caprice or fancy. Civil society is not the result of human caprice. It exists according to the natural order. It has a special scope, subordinate to the final end of all things. To this end society effectively tends; and, for this, God wills its existence. If, therefore, society is commanded by God to attain its proper end, it is natural that the best means for the acquisition of this end should also be willed by Him. The greater or less tendency which society has to attain its end, chiefly depends upon the better or worse direction imparted to it by the one who holds the power. It is, therefore, natural that God should command men to choose for their guardianship those who are most capable of guiding society to its end. To act differently would be to act not only against this natural law of choosing the most worthy, but also against the law of procuring the greatest common good; for this could not be attained under the direction of an inefficient head. And even when, the election being made, the most worthy is not chosen to wield the power, it is, nevertheless, conferred by right; and the one chosen is the true head of society, because, by the consent of the people, he is duly constituted as such.

318. Different Ways of Acquiring Civil Power.—Generally speaking, there are three modes whereby one may become the head of society—viz., by election, by inheritance, and by conquest. We have seen that the subject of power is nearly always determined by men. They can elect either one or more persons, and appoint them to govern either for a succession of years, for a determined

epoch, or during their lifetime. They may elect them in perpetuity, by way of a dynasty, causing the power to be handed down from family to family, or by giving power to the head to elect, before dying, his own successor. They may also, by consent, approve of the power acquired by a conqueror, &c. &c.

The power acquired by inheritance is nothing but a government obtained by election. The electors, instead of having elected an individual, have elected a dynasty. In thus appointing the first head, they also appoint his descendants to succeed him; and, consequently, the descendants will hold the power, for the same reason as their predecessor held it. This mode of establishing a power or government, is in itself good, just, and rational. It is to be preferred to the election of a power for a determined epoch, or for a lifetime, because it prevents division of parties, and wards off those quarrels and dissensions which generally accompany an election. Persons thus chosen are prepared, and, consequently, better adapted for governing. He who is destined to govern is so educated as better to attain the end of government; and a good education has a greater part in such attainment, than nature itself. A dynasty, being already well provided for, is, in itself, less burdensome to the people. Its antiquity conciliates the people, and loves and wins their esteem; and, through a feeling of attachment, the people more cheerfully render to it their obedience. Every rule has its exceptions, and we do not deny that the misrule of some Kings militates against what we maintain. Nevertheless, it is not from particular cases, but rather from general results, that we must form a true criterion of the natural essence and development of things.

We have already proved that the power obtained by conquest cannot, until the conquered people consent to it, be a proper power. For that which constitutes power by right is the consent of the subjects; and, when this power exists, perfect society is established. Its power

comes to the conqueror from God, through the people; and, thus, he lawfully exercises it over his people.

319. **The Civil Power is subject to Restriction.**—The people, in electing their governor, can also limit his jurisdiction, though not in the sense of diminishing the authority of his command; for this comes from God; and, when its ordinances are just, and transgress not the bounds by which the power is surrounded, it ever remains the same. But the restriction which the people can place upon their head refers to the matter, or to the boundaries of jurisdiction itself. In order that this limitation of power may be lawful, it must proceed from good and just reasons; and, were such reasons absent, and the restriction made, the jurisdiction would become really limited. We shall prove this, as follows.

Civil society ought to exist amongst men for their greater perfection, and for the acquisition of the greater common good. For the attainment of this end, all kinds of government are calculated to be good; and one form cannot be said to be more necessary than another. The formation of society is left to the prudence of men, who themselves determine which is the best form. If men can form the whole, they can deduct from it a part. The limitation of the power or jurisdiction, established by men in the election of their head, is in conformity with their liberty, will, and reason. These determine them to be guided by such and such a form of government, under such and such conditions. Therefore, this limitation of jurisdiction in their head is a reality, and not a fiction.

Moreover, this limitation of power is often productive of the best results to civil society.

That which compels the subject to act conformably to the laws and to the public good is the authority to command, and not the power of forming laws, and of changing at one's pleasure even the most fundamental laws. In the individual body, the head does not give

new laws to the rest of the members; but it directs, commands, and governs their actions, according to the laws which rule the life of that individual. Why, therefore, in the social body, should there be an arbitrary and despotic head, to act as he likes, and to have ever before him his own private interests, his own pleasures and accommodation, and not the welfare of his subjects?

Men, when invested with power, cease not to be men, nor are they free from the appetites, instincts, and passions of men. Nay, they may thus feel a stronger impulse to gratify their passions, and they certainly have less coercive means for holding them in check. Hence, under the influence either of ambition, of lust, or of pride, they might tend to use their power rather for the gratification of these passions, than for the acquisition of the common good of society. We leave history to decide whether the guilt of the public calamities, wars, revolutions, and bloodshed of all past ages, as well as of the present one, is to be ascribed to the rulers of society, or to their subjects. Therefore, it is good and beneficial that the power of command should be restricted in the absolute head of society. In causing restrictions to be made, the people simply exercise their own rights; and no one can prevent them from so doing. *Ergo—*

320. **Constitutional Government.**—By a constitution, we mean a body of laws, considered as the foundation of government, and, according to which, society is to be governed by its head. As those who form the social body can grant such a constitution to their head, so, the head can grant it to his subjects, in order to assure them that he wishes not to abuse his power, and that he is willing to limit it. When the constitution, or limitation of power, is once obtained and accepted by both head and members, the power of right can no longer be exercised against what is prescribed by the constitution, unless such action be sanctioned by a new reciprocal

consent. It is not our purpose at present to eulogize the beneficial influence which a constitutional government exerts over society. Any student of politics can at once see that no better form of government can be obtained ; and it will be a happy day, when Oriental nations are brought to delight in the privileges enjoyed under the constitutional governments of Europe.

321. **Can the People deprive the Head of Society of his Power, and bestow it on others ?**—This is a question very difficult of solution, without involving other questions of greater vitality. It is certain that no one can act against a person holding legitimate possession of a thing, merely on the probability that such a person may have lost his right. It is required that the probability should become a certainty. It is most difficult practically to judge when the social conditions of a people are worse than might be expected, and to decide whether their depravity is due to themselves, or to their rulers. It is equally difficult to attempt, by a change of government, to better the social condition, without, at the same time, running the risk of making it worse.

Hence, it is evident that our question is one most difficult of solution, and that it is not to be easily unravelled. But, if we examine it in itself, or theoretically, when the conditions are in the possible order of being verified, then it is easily solved.

And, indeed, having seen the end of civil power, and its origin in the subject of power, it would not appear difficult to demonstrate that, in some cases, the people may transfer such power from one to another.

It cannot be denied that civil society is willed by God for the greater development of temporal prosperity. This is to be obtained by common means in the order of possibility. It is not to be had by means contrary to the duties imposed by Him, as necessary to acquire perfect happiness, which all men, indeed, strive after, but which can be obtained only in the life to come.

It is, moreover, perfectly certain that the civil power is directly constituted, in order that it may procure for the people public good. It is likewise beyond doubt that men have destined other men to exercise over them this power, with a view to securing their public temporal welfare. For this end, they have placed themselves under the direction and guardianship of persons invested with civil power, in preference to others to whom such power might have been given.

It is, therefore, evident that the people, in the constitution of civil society, have chosen and made their head, and that the people are made neither by the head, nor for the head. If the above be true, it follows that, whenever the people are altogether dissatisfied with their impious and unjust head, they may withdraw from him his power, and impart it unto others. In such cases, the dictates of reason prove that the people, according to the rights of Nature, may be justified in so doing. No one can testify better than they, whether due interest is taken by the authorities in their behalf, and whether the greater good, which is the end of society, is procured for them, or not. Moreover, the people, in founding society, did not intend to bind themselves for ever under the authority of one or more; nor did they wish such authority to last for ever in the successors of those who held it. We cannot suppose that people would have been so foolish as to deprive themselves of their right to confer authority on whomsoever they might wish. Besides, how could it be proved from the universal order of things, that the authority to command must for ever abide only in the special individual, or family, that, in the beginning, was elected as the head? Were we to admit this as proved, it would follow that God has privileged only certain members of certain families to hold the power by absolute right, whether they fulfil their duties, or not, and whether they secure the greater good of the people, or not. But this would be an absurdity. Therefore, we

must admit that the people, not as a section, but as an entity in its universality, have the right to deprive the head of society of his power, and to bestow it on others, when essential and good social reasons demand it.

It is true, and we avow it, that the people might easily abuse their right, and that, whenever they deemed it expedient, they might cause a revolution in a nation, thereby spreading terror and dismay. Yet, this does not destroy the truth of our statement. That which is a dictate of sound reason cannot be destroyed by its abuse. No one, for instance, would deny the utility of railways to society, even though many persons are killed by frequent railway disasters.

When the subject of power dies, his authority to command ceases also to exist. The laws enacted by him during his lifetime, with the clause requiring their observance in perpetuum, remain in force until repealed. His successors may, with the fulness of power, either reject them, change them, or enact others in their stead, whenever prudence and necessity demand it.

If the head of society is constituted *ad tempus*, or for a limited time, his power ends on the expiration of the time; because, when such time has expired, the consent of the people is likewise withdrawn, and, without such consent, the head remains bereft of power, and of legitimate government, and no longer does he possess any authority to command.

Such power may end by the renunciation of it, tendered by the head, according to the laws. Whenever both parties will this renunciation, it may be made by mutual accord between the people and their head. The latter cannot, of himself, and without the consent of the former, renounce his office, unless it be impossible for him to perform his duties, or unless there be some other good reason for his renunciation of it; his office being a task reciprocally assumed.

On no account whatever, can the head, to whom power is

given *ad tempus*, transmit it to another, without the consent of those who conferred it upon him. The power of Government is not a dominion acquired by the head, but rather an office and a right, which, when it cannot be any longer held, should be resigned, and placed in the hands of those who gave it ; for the people are not obliged to submit to a power which has ceased, both immediately and mediately, to depend upon themselves.

CHAPTER XI.

FUNCTIONS OF THE CIVIL POWER.

322. By the words, " Functions of the Civil Power," we mean those duties which are to be performed by the persons invested with supreme power. These functions are threefold—viz., (a) to command subjects to fulfil their duties for the attainment of the greater public good ; (b) to exact from each member of society the observance of the laws enacted ; (c) to settle all questions that may arise among its members, and to defend their rights.

With these three specifically distinct functions the three different powers of a nation correspond. They are : (a) the legislative power ; (b) the executive power ; (c) the judiciary power. Before beginning to treat of each of these powers, we will prove the following principle.

323. **These three distinct Powers ought to be Supreme in the Head of Society.**—Although these powers are specifically distinct from one another, and although they may either be exercised by three different persons, or may belong to three different bodies of public functionaries ; nevertheless, they are only three different parts, essential to the supreme head of society. The authority necessary to guide society cannot but absolutely and independently reside in the one supreme head of society—*i.e.*, in the subject of power. From him it must pass to his representatives, however divided they may be ; and

these, dependent on the head, maintain and exercise that power. These public functionaries, or magistrates, depend on the head, so far as regards the administration of their power; because, unless placed in the office whence they receive authority, they cannot, of themselves, exercise it; inasmuch as it is granted to them, and must be exercised by them accordingly.

The unity of the subject of power cannot be destroyed by the existence of such specifically distinct functionaries. Indeed, if we allow that the supreme head is not independent of all the three mentioned powers, we must also admit the existence of three supreme heads of society, depending on one another in the exercise of that power which they individually and absolutely possess. But this is an absurdity. Society, as a social body, ought to have but one head, and not three; for a body with three heads is a monster. Therefore, as in society there can be only one who is head, so, in that head, the legislative, the executive, and the judiciary powers ought to be found absolute and independent. The head may either itself exercise all these functions, or commit them to three different functionaries, independent among themselves, but all dependent on the head. This being well understood, we will now proceed to speak of each power, in three separate articles.

ART. I.—The Legislative Power.

324. Among the prerogatives of the supreme power of a society, the legislative holds the first place. To it every other power clings, and on it each one depends; because, without the legislative power, which informs the subjects, and compels them to submit, the acts either of the executive, or judicial powers, would be acts of merely physical force.

325. The Legislative Power is that power which commands the subjects to obey and respect the ordi-

nances of society. It may also be called the power which enacts laws; because the will of a superior, when made known to his subjects, becomes law. Yet, we may also call all those rules, to which subjects ought to conform themselves, positive laws, because they are established by the human fact, independently of the will of the head of society. We mean all those fundamental rules agreed upon by the citizens, and to which all owe obedience; because there is as much obligation involved by a reciprocal fact, as by the command of a superior. Law, properly speaking, means a general rule of acting, imposed by the superior. Hence, as the conventions or obligations of which we speak, really constitute a general rule of acting; so, with good reason, they may be styled law.

From this we gather, that, although the supreme head is likewise subject to obey such rules, or societies, as are established by the human fact, yet he always preserves the legislative power. To him the power of making laws does not mean that he has authority to command whatever he likes. It means that he can oblige his subjects to fulfil that which comes within the range of his authority, or that in which his subjects are subjects. The head possesses the legislative power, no matter how restricted his power may be; for, in whatever belongs to his headship, he commands always with authority, and obliges with the same force.

326. **The Legislative Power is essential to the Supreme Power of every Form of Government.**—Indeed, without such a power, the persons constituted to govern the social body would prove to be not only useless for its scope, but altogether bereft of the governing power indispensable to the existence of society. They would be only simple advisers, or counsellors, to be obeyed in proportion to their skill in argument, their clearness of foresight, their reputation, &c. But such guidance or direction, being a task which any private person might

accomplish, could not be a function of supreme power; the inferior might thus, by his intellectual power, govern even his superior.

In order to govern as a superior, and to direct the social body, a different force is required. This force is the authority of command. Hence, there remains one of two alternatives. Either the persons appointed to govern society have this power to command, in virtue of the legislative authority inherent in them; otherwise, they cannot be appointed to govern society; or, the multitude being headless, there exists no real society. Therefore, common sense tells us that, whatever be the form of government, the legislative power is essential to the supreme power.

327. **The Matter of Civil Laws.**—The matter of the laws, enacted by the civil power, is generally determined by the end for which civil society is established. However, as this is not the final, or principal end of man, it is not sufficient that the law, in order to be just and legitimate, be in conformity only with the end for which society is established. It must harmonize with the other ends for which man exists and works. It must not come into collision either with that higher end to be attained by man, or with that which is of the greatest utility to society itself. Moreover, the law ought to be within the limits of the matter of jurisdiction, which is the field wherein the subject of power exercises his authority.

Hence, the subject of power may command his subjects indiscriminately to correspond with the maintenance of order by proportionately rendering their services and contributions, by paying taxes, and even, when necessary, by serving in the army. All these are social necessities which cannot be fulfilled by the subject of power alone. He must have the co-operation of all the citizens. Hence, on the one hand, it is their duty to co-operate; and, on the other hand, it is the duty of the authority to compel them to do so. It also belongs to the civil power to

establish laws, in reference to the conditions required for the validity of contracts, and for the support and defence of all the relations willed and established by the people. It may also enact penal laws to suppress the commission of crime, and may prohibit the use of anything which, though good in itself, may yet be dangerous to the public health, tranquillity, &c.

328. When has Civil Law no Force of Command either upon Society, or upon the Individual?—Civil Law binds by the Force of Command neither society, nor the individual, *First* ;—when it enacts things contrary to the divine, natural, and positive laws. For, as all authority emanates from God, it would be impossible for the human subject of power to possess the right to exact that which God does not will, because the inferior cannot lawfully act against the right of the Superior.

Secondly. When it commands things which are not in the order of possibility. No one is obliged to do a thing which it is impossible to effect; according to the old saying, *ad impossibilia nemo tenetur*. By the word impossible, we mean that which cannot be effected without extraordinary and supreme difficulty, or which, in relation to its scope, would be held as unnecessarily burdensome. Human laws ought to be restrained and moderated according to the ordinary and common faculties of the subjects. Otherwise, the end of civil society, and of the subject of power,—viz., the greater good,—could not be obtained; in fact, there would accrue greater disadvantage and inconvenience, instead of greater good.

Thirdly. When it commands things unjust and unlawful. By such laws, the private rights of citizens and families would be offended; because, in the formation of society, it was not intended to subject such rights to the public good, nor, consequently, to the supreme power. Therefore, such laws could not be binding.

Fourthly. When it commands things which are perfectly useless. No one can be robbed of his liberty, merely at-

the caprice of others, if, from the scope of the law, there is no reason why he should be subject to others.

Fifthly. When it commands merely internal acts. The internal acts of men cannot, absolutely speaking, be under the control of the subject of power, if they possess no importance in reference to the end for which civil power is established, and for which it commands.

329. **Civil Laws bind the Subjects in Conscience.**—When the supreme power does not exceed its limits, and when it commands right and useful things, its ordinances are binding on all the subjects, not only in a civil, but in a conscientious sense. That is to say, the transgressor of civil laws is guilty of an evil deed, and worthy of established penalties, not only before society, but also before God; for God commands that the ordinances of a government be observed and fulfilled by all, since they are the means whereby to attain the public good willed by Him, and established in the natural order of things.

Among the penal laws, there are some which are styled simply penal, because their object is, not to absolutely forbid a thing, as in itself evil, but to inflict a fine. The justice of these laws is corroborated by reason. The public power, seeing it difficult to restrain its subjects from certain actions, which, though not evil, are, nevertheless, contrary to the public good, can enact a penal law, or impose a fine for the infringement of the laws; because it is within the limits of the matter of power to prevent injury to the public good, the main object of society. These laws, in substance, induce a moral obligation, causing the transgressor to pay the fine or penalty imposed upon him. Hence, we may, without fear of error, conclude that all civil laws, when just, bind the subjects in conscience, if the legislator so wills.

330. **Immemorial Usage, or Common Law, has the Force of Law.**—To the immemorial usage of a country we may apply all that we have said in reference to laws; because, in substance, such usage manifests the will of the

social power ; and law is nothing else than the will of the superior, and not the dead letter of a code. Hence, this immemorial usage may also be called an unwritten, or common law.

Still, there is a difference between common law, and law in its strict sense. The former derives its obligation from a thing already practised by all ; the latter obliges, because it is enforced by the superior. The law, in its strict sense, commands, by manifesting the will of the superior who exacts. Common law obliges in virtue of the presumed consent of the superior to a thing already binding. The former is explicitly expressed and promulgated by writings ; the latter, by use, silence, and universal approbation.

331. Common law, on account of the three different connections which the thing in usage has with the law, may be either according to, above, or against the law. It is according to the law if it interprets it ; it is above the law, if it induces a strange, or new practice ; lastly, it is against the law, if, by its constant practice, it inculcates the opposite to that which is commanded by the positive law, so as, in that respect, to cause its abrogation. The effect produced by common law against the true law is lawful and just, when the superior does not counteract it, and when, by observing silence, he allows it to be universally adopted. We could never presume that the superior would keep his post, in order to contemplate with indifference the transgression of the law, were he not to approve of it.

332. Abuse of Common Law.—From the above, it appears that not everything that is called abuse of the laws of former ages, is so in reality. Real abuse can exist only when practice is contrary to reason ; and to be contrary to reason, there must be an absence of those conditions which things ought to possess, in order to be the matter of permission, or the law of the power which governs society, where such practices, or common laws,

are in vigour. All that might not be commanded may be universally practised, so as to abrogate the law that commands it. All that might lawfully and validly be commanded by law may become obligatory by custom. We may say that everything that is introduced into a nation in reference to social life, and universally adopted, is within the limits of the common law ; and that no abuse is to be found in it, so long as it is in accordance with the dictates of common reason.

333. **The Subject of Power ought likewise to obey the Laws of the Country.**—If we speak of a nation whose government is constituted by a plurality of powers, this statement is self-evident ; because the persons who intervene in the formation of the laws have, for their guide and will, all that is not exclusively their own. The law is not the will of an individual only ; therefore, its existence does not depend on any individual ; consequently, all must obey, and be subject to the law.

But, if we speak of an absolute monarchical government, where the will of the king is law, the object bears a different aspect. He would not be directly obliged to obey the law, because no man can take away the will of another. He would, however, be indirectly obliged to do so, in virtue of natural equity, which demands the proportionate intervention of all the members of society in the attainment of the public good. He would, moreover, be indirectly obliged to obey the laws, in virtue of the duty which he has, as the head of society, to guide its members by his example, and by the observance of public order, and common usages ; for, it is the body that commands the members, and not *vice versa*. Since, therefore, the laws of the country have an end common to all, they ought to be obeyed by all.

334. **The Qualities Requisite for a Good Legislature.**—The law, besides being just, ought also to be convenient. The extrinsic relations, and the intrinsic dispositions of a people, are not always the same. Hence,

that which to-day would be useful and efficacious, might, under different circumstances, be to-morrow useless and pernicious. Legislature and government are the works of prudence ; consequently, they ought to be guarded by experience. Still, there are some qualities which, when inherent in a law, prove to be, under all circumstances, most useful.

The qualities here spoken of are reduced by philosophers to five :—(1) In order to prevent falsification, alteration, and misrepresentation, the law ought to be written. (2) In order that it may be understood by all, and that it may rule all in the same way, and form a source of order, it ought to be clear. (3) Laws should be few in number ; because their multiplicity, instead of directing the activity of the citizens, becomes to them a stumbling-block, and unnecessarily restricts their liberty. (4) Laws ought to be constant ; because their antiquity attracts veneration, and disposes the subject to observe them. (5) A law ought, as far as possible, to be universal, or convenient to the generality of people and circumstances ; because the law is always enacted for the public, and, therefore, too many exceptions and dispensations would cause it to be hateful and despicable ; and those who ought to fulfil it, would omit doing so, under the pretext that they have as much right as others to avoid its fulfilment.

ART. II.—The Executive Power.

335. In order to guide society aright in the attainment of its end, it is not sufficient to show people the right way, but it becomes expedient that they be compelled to walk therein. It is not enough to enact good laws ; they must be in all cases obeyed by all. Hence the necessity for an executive power, which is the authority belonging to the supreme power to demand of every citizen obedience to the laws, and, when necessary or expedient, to compel him by physical force to obey them.

The executive power is of absolute necessity to the subject of civil power, because, without it, the supreme power could not accomplish its intention. The order formed by the laws would be to the honest man a burden, and to the wicked, a gain. It is, therefore, a duty incumbent on the head of society to see that the laws be obeyed and fulfilled by all the subjects. This executive power, which demands and enforces the fulfilment of the law, is what is commonly called Government.

336. The Government, thus understood, is, under any form whatever, subject at all times to the laws of nations. The supreme power of society, being obliged to provide for the public good of society, must, as a legislative power, establish within the precincts of its jurisdiction a system of social life, and the common works necessary to it. In this, the said power may act according to the dictates of prudence and experience.

On the other hand, the head of society, in the quality of the executive power, ought to exercise his authority according to the laws of the country. From no one can he exact anything not prescribed by the laws, or contrary to them. The head of civil society is not like the head of a family. The latter directs the private business of the family, and exercises command over its members. The former is a public authority, directing works for the public good, and commanding the public. This power can exact from every member of society that only which each one must do, as a citizen and member of that body whose subject of power is the head. Each citizen is bound to co-operate proportionally in the attainment of the public good, inasmuch as this is prescribed by the law. With regard to things not commanded by the laws of society, the citizen is free to act as he likes. If the order or welfare of the public were to require some new or diverse organization, the supreme power should, in the first place, prescribe what is to be done, and then exact from all the citizens the fulfilment of what is prescribed,

as commanded by law. Herein resides the justice of government; and to this the executive power ought to cling, in order that it may not degenerate into partiality and despotism.

337. The Supreme Power can Dispense from the Law.—This statement is likewise in accordance with the dictates of reason. In fact, order and reason show that, if the observance of a law be the cause either of an evil, or of a great disadvantage to any of the subjects, the fulfilment of that law may be dispensed with, when, by such dispensation, no evil can accrue either to a third person, or to society.

It is also reasonable that a person should be relieved of a common burden, whenever he may be otherwise useful to society, and when he may specially contribute to the public good.

Moreover, as the legislative power ought to prefer justice and honesty to public good, it can never be presumed either that a law should be enacted, simply on account of some special circumstances relating to certain individuals, or that it should do anything that would prove to be unjust to others. It is, therefore, in accordance with reason, that the executive power should dispense an individual from the fulfilment of the law, when special circumstances demand it on the part of the subject; and this is what is styled the right of granting privileges.

338. The Executive Power can be Coercive.—By coercion, we mean the right possessed by the supreme power of society to exact, by compulsory means, the fulfilment of the law from those who endeavour to infringe it. As we have already said, this right is absolutely necessary to the head of society. Indeed, without it, the executive power would prove useless. But, as the executive power is requisite to direct society to its end—viz., the public good—so the government ought to possess coercive means, whereby to support the laws of the country, and to secure the just division of common social burdens.

In the use of coercive power, the supreme authority must abstain from hard and rash methods. It must not be influenced by caprice, or tyranny. This would exasperate the subjects, and provoke them to act against the law. However, coercion should be used decisively, firmly, and inexorably, in order to paralyze the audacity of the mob element of society, and to counteract its evil effects.

339. The Executive Power ought to Watch over Public Education.—That nation which succeeds in maintaining order among the people, simply by coercive force, and without a moral force, whose essence is charity, is like unto a palace built upon sand, which the violence of a stormy wind may overturn. It is true, we no longer behold, as in ancient times, troops of slaves bound together with chains, but we see our capitals guarded by whole armies. After so many reforms and changes, we see, upon close observation, that questions of government and of public order have resolved themselves into questions of force. The rich are armed against the poor; and, over both, armies are drawn up in array, to maintain tranquillity, even by the power of their artillery. European nations stand armed to the teeth. Their object is, not only to keep themselves in readiness against any unexpected attack, but also, by means of their armies, to compensate for the absence of moral force, which is deplorably felt on all sides, and nowhere more keenly than where the words, justice and liberty, have been the most ostentatiously proclaimed.

The enervation of numerous classes by means of monotonous and effortless labours, and by complete abandonment of pleasure, may, by some, be considered an element of order, because thereby their power of striking is either altogether destroyed, or at least diminished. However this may be, it is certain that, without the aid and influence of moral means, society cannot continue its career. These means, being circumscribed by such narrow limits, cannot suffice. Therefore, it is indis-

pensably necessary to encourage the development of institutions adapted to exercise moral influence in a practical and efficacious manner. Books, of themselves, are not enough. The extension of instruction is but an inefficient means, which, unless based upon solid moral principles, may become fatal.

The propagation of vague and undefined religious ideas, without rules or dogmas of worship, will serve only to propagate gross superstitions among the people. They are vain remedies, powerless to stop the progress of disease, and liable, by augmenting the delirium of the patient, to hasten him to his tomb. Small minds, which do not extend their views beyond a limited horizon ; evil hearts, which nourish only hatred, and which delight in exciting rancour and evil passions ; the fanatics of a mechanical civilization, who acknowledge no agent but steam and electricity, no power but gold and silver, no end but pleasure—all these will assuredly attach but little importance to our observations. To them, the moral development of individuals and of society is of no concern. For them, history is mute; experience, barren; and the future, a nonentity. But, happily, there still remain great numbers of men who believe that minds are nobler than metal. These acknowledge the necessity which rests upon a government for watching over the moral education of society. These know how keenly and how generally the wound in the social body is felt. These see how urgently a timely application of a remedy is needed, in order to ward off incalculable evils.

To this effect, it belongs to the supreme coercive power of a nation to watch over public instruction, in all that regards social order, so as to deaden the dissemination of false principles, prejudicial to the welfare of society. To parents belongs directly the education of children ; and to religious power, the diffusion of truth. Still, indirectly, such education belongs also to the social power dependent on the religious power, so far as it possesses the means

necessary to obtain the end, and to avert the teaching of error, which, under the appearance of truth, might be insidiously established.

It is a positive fact that no one has a right to mislead the people by erroneous doctrine. It is likewise a fact that nobody has a right to impede the diffusion of truth. The teaching of truth, and the destruction of error, are the most efficacious, and the most powerful means of ensuring the public welfare. Therefore, it cannot be denied that the public power possesses the right and duty to diffuse truth, and to quench error, wherever the latter is found, in order to secure the greatest public good. But, although the public power should defend the truth, it must be borne in mind that truth, as such, cannot be subordinate to the public good, nor, consequently, to the public power.

340. **Liberty of Conscience and of Thought.**—Both to the subject of power, and to the members of the social body, belongs the right of liberty of conscience and of thought. Hence, it is possible that, in some cases, these rights may happen to come into collision. This collision stands in the order of possibility, because it is in this order that what I hold as true, another may hold as error; for, what I hold as true, I can defend as such; and the other, who considers it error, has the right to remove it. Thus, it may be possible for the subject of power to treat as erroneous the teaching of a member of society, while the latter may believe his own teaching to be true. In this case, there would be a real collision of subjective and absolute, but not of objective rights; for, as we have said, truth is not subordinate to any human power, nor to the public welfare. We say subjective rights, because for the same thing to be true in the mind of one, and not in that of another, is not repugnant; whereas, to admit collision of objective rights would be repugnant; because truth is but one, and it cannot be, at the same time, both true and false.

In our case, we maintain that each one has the right to follow the dictates of his own conscience. Therefore, as that power, which exacts from the subject what he thinks it his duty to exact, could not be called despotic; so, the subject who does not conform to the law, on the ground that he thinks it contrary to his conscience, and consequently to truth, could not formally be styled a rebel. It is certain that, in this conflict of rights, objectively speaking, one is right and the other is wrong, because the truth is one. Yet, both may accomplish formal good, if they really act in order to obey God, Who is above every power, and from Whom all powers derive their authority. Both of them ought, independently of each other, to show this obedience to God ; because, when God willed one man to be subject to another, He did not dispense any one from obedience to Himself ; nor, when He commissioned one man to command another, did He subject that man to the will of his subjects. Therefore, each one, whether superior or inferior, is, in the case we speak of, independent of any other ; and, by doing that which he considers to be commanded by God, he does a moral subjective good. Still, we admit that, in matters of religion, no one can judge for himself, independently of the Church ; and that the State is bound to interfere with erroneous doctrine, and to enforce the observance of a just law, when any one, influenced only by his private views, would disobey it.

341. The Supreme Power can Impose Taxes.—The most powerful means, whereby the members of society may be kept in order, and guided to the acquisition of public tranquillity, is, as we have seen, the moral and religious education of the people. Still, of itself, it is not sufficient, and something further is required. In every government, whatever its form may be, the co-operation of many persons is required, and much expense is incurred, for the maintenance of order, and the accomplishment of necessary public works. As this justifies

the legislative power in the taxation of the citizens, whereby all are bound in due proportion to contribute to the public fund ; so, it also justifies the executive power in exacting from every citizen the payment of the taxations imposed. This right is manifest. But a government should clearly understand that, in proportion as it augments the taxes, the greater will be the task of peacefully maintaining its right ; and that, in proportion as the subjects resist such a right, the greater will be the burden imposed upon the government.

In the imposition of taxes, a government should always act in accordance with the dictates of communicative justice, and according to the proportionate participation which citizens have in the public good. Thus, he who derives from the public good a tenth part should correspond in the tenth part ; and he who enjoys a hundred parts should contribute ten times more than he who enjoys only ten. This rule is frequently overlooked by governments ; and, consequently, the poor and the rich are often taxed in an equal quantity, but in an unequal proportion. As, however, we are not writing as statesmen, we will leave this question to those to whom it belongs ; but, as philosophers, we have the right to maintain what is according to reason, even though many may, on account of their personal interests, take a contrary view.

ART. III.—The Judiciary Power.

342. The third function to be exercised by the supreme power of society is that of deciding such questions as may arise in reference to the rights and possessions of every member of the social body. The authority, which the superior power holds inherent in itself to solve these questions, is styled judicial, juridical, or judiciary power.

This judiciary power is absolutely necessary to the subject of power in society. This statement can be proved, by reflecting that the questions arising amongst

the members of society would be endless, and the decisions useless, if there were not an authoritative sentence, having the force of law, whereby these questions might be settled. Now, this sentence can proceed only from the supreme head, because he alone, as superior, can control the will of the subjects. He, therefore, must necessarily possess this power, in order to set at rest the countless disputes and lawsuits which may arise, either through ignorance of the law, or in consequence of its obscurity, or through the spirit of interest and human malice.

343. **Judiciary Power is Twofold.**—The office of the judiciary power is not only to define a person's right of possession when oppugned by another, but also to decide the quality and quantity of the restitution to be made, when one's rights are violated. Hence arises the division of the judiciary power into civil and criminal.

The civil power deals with disputes or questions of rights, apparently in collision with one another, or which different persons claim, in reference to the same thing.

The criminal power defines the guilt committed by the violation of the rights of others, and sentences the criminal to undergo a corresponding pain, or penalty. The manner in which a judgment begins, and proceeds to a conclusion, is called a trial.

344. **A Trial consists of Three Parts.**—All operations of the judiciary power are included in three different acts, which form the parts of a trial—viz., the process, the sentence, and its execution.

The process, which in civil matters is called discussion, is necessary to a trial, in order that the judge may be well informed of the true state of the things on which the sentence is to be pronounced. A civil trial is a thorough examination of the titles, rights, and reasons, adduced by the contrary parties in their own defence. A criminal trial is a thorough investigation of the crime and its circumstances, in order to discover its real author.

In a civil trial, the sentence determines and proclaims to the public the person to whom the rights over a disputed thing belong. In a criminal trial, it declares whether the accused person be guilty, or not; defines the extent of the guilt, and imposes a corresponding pain, or penalty.

The execution of a civil trial consists in the agreement of the public to instal the person, whose rights have been declared legal, in the possession of that which he claims to be his own, &c. The execution of a criminal trial is the fulfilment of the sentence pronounced against the criminal.

345. **Witnesses are required for the Process of a Trial.**—For the formation of a process, the judiciary power has the right to summon the citizens to give evidence of the facts adduced in the trial; and it is the duty of the citizens to obey the summons, because, as members of society, they ought to take an interest in the public good; and, as the public good requires it, *ergo*, it is a duty on their part. It is also just to duly compensate them for their time, as, *lucro cessante*, they lose by this performance of their duty, since they are unable to attend to their private business, and, at the same time, to fulfil their duty as witnesses.

346. **The Criminal is Justified in Pleading Not Guilty.**—This justification arises from the absence of a natural law, binding a member of society to denounce and accuse himself, and to confess his crime to the judge, even when called upon to do so. In civil society, every one ought to ameliorate the public good; but no one is ever presumed to be obliged to enhance the public good by the confession of his crime, and thus to sacrifice his honour, liberty, and fame.

Society has no right to expect from the culprit himself a confession of his guilt. All the rights of the civil power consist in investigating the facts imputed to a criminal, in order to discover the truth. When, how-

ever, the accused person is found guilty, it is the right and duty of the civil power, in virtue of the natural law, to punish the culprit; but it has no right whatever to exact the confession of his crime.

Some say that the accused, when lawfully asked, is obliged to confess his crime to the judge, in order to make reparation for the wrong committed against the public good of society. We maintain the contrary. The public good rightfully claims that criminals should be found out, and, when found, that they be chastised, in order that crimes may not be multiplied with impunity. Nevertheless, as no damage accrues to society, when the culprit is not discovered, so, by the argument, *a majori ad minori*, no damage befalls society if the culprit does not, when asked, confess his guilt. Therefore, we may safely conclude that the culprit is justified in pleading not guilty, though lawfully questioned by the civil power.

347. Torture.—From the preceding conclusion, which seems to us just, because it is according to reason, we may here denounce the vile use of torture, exercised by justice in past ages. The precautions taken in the investigations of a trial are not always too numerous. Yet, to punish a supposed culprit before he is judged, in order to ascertain the truth of a judgment, is something altogether contrary to reason. The use of torture, whereby to exact the truth from a culprit, is unjust;—*First*, because, as we have proved, the subject of power has no right to exact from a criminal the confession of his guilt;—*Secondly*, because the criminal is not, by any natural law, bound to plead guilty to the judge;—*Thirdly*, because it is contrary to reason to punish, before the sentence of guilt is pronounced;—*Fourthly*, because torture might of itself cause a guiltless person to plead guilty, and thus to tell a deliberate lie, in order to avoid punishment.

348. Can a Man be Imprisoned without Trial?—To deprive a man of life, or to confiscate his estate by violence, without accusation or trial, would be so gross an

act of despotism, that it would at once convey throughout the kingdom the alarm of tyranny. There would be no one who would not denounce it as unjust, because against the dictates of reason.

But our question refers to the arrest, the secret conveyance to gaol, and the confinement therein, of a person either suspected of being a man dangerous to society, or known to be such. In this case, if we speak of an honest citizen, suspected of having committed a crime, reason sides with the negative ; for no one, unless proved guilty, is to be condemned ; and as, by imprisonment before trial, there is a real condemnation ; so, the question is negatived as against reason.

On the contrary, if we speak of notorious ruffians who have been repeatedly found guilty of crime, imprisonment before trial would not, in their case, be a direct condemnation of the evil suspected ; but such scoundrels might, in condemnation of their former crimes, and, under the circumstances, be reasonably hurried to gaol, and kept there, until sentenced.

As philosophers, we cannot but praise and commend the introduction of the Habeas Corpus Act among the laws of this country. It is one of the chief safeguards of English liberty ; it is the envy of foreign nations ; and it is one of the best securities ever devised against tyranny. The preservation of personal liberty is of immense importance to the public ; for, unless it were thus preserved, any one might be arbitrarily imprisoned either by the highest magistrate, or by his officers ; and thus, there would quickly be an end of all other rights and immunities.

349. The Culprit possesses the Right of Self-defence.—The process of a trial being concluded, the culprit should, before the final sentence is passed, be reminded that he is found guilty, and told why sentence is to be pronounced against him, in order that he may allege what he can in his defence. Society has a right to punish

transgressors of the law, lest itself be made a field for the practice of crime ; hence arises its right to proceed against criminals. But, if society possesses this right, the culprit possesses the right of self-defence ; for he has a right to his fame and reputation, to his liberty and personality, provided he has not, through his own fault, lost it. Hence arises his right to defend his innocence, and to adduce all proofs and reasons necessary either to free him from the crime imputed to him, or to lessen its guilt. To deny such a right would be to act against reason.

350. The Right to Engage Solicitors and Barristers in Defence.—When the accused is incapable of defending his innocence, and of adducing, in proof thereof, corroborative arguments and evidence, he has a right to select confidential persons to advocate his cause ; and, if he be unable to meet the expenses thereby incurred, the duty of appointing capable persons to defend him falls upon the supreme power. For, until the guilt of the accused has been ascertained in every possible way, the supreme power has no right to inflict punishment.

One person cannot interfere with another unless it be manifest that he has a right to do so. Now, the supreme power acquires this right over a criminal, in consequence of his crime. Hence, before exercising that right, the authorities, in order to avert a false judgment, should discover the certainty of the crime. Therefore, it follows that the question should be examined by a third person, who takes upon himself the interest of the culprit, and speaks in his defence. The person who thus interests himself in the culprit's behalf is called a **solicitor**, an **advocate**, or **barrister**, or the **advocate for the defence**. The advocate is, in reference to matters of justice, what a physician is, as regards the health of the body.

The advocate is, in justice, obliged to study the position of his client, and to exert himself to the utmost, clearly to lay before the court of justice all the arguments

and reasons that can be adduced in his defence. He is, moreover, obliged to do this, through a gratuitous or onerous contract. But he should remember that he must not, in order to save the culprit, crush either the rights of others, or the public good. Justice must be his only guide. Were he to prefer to justice his own mercenary gain, he would prostitute justice. An advocate is admitted to plead in court, in order that he may co-operate with others for the triumph of justice. Hence, if he were to make use of justice, in order to patronize injustice, even though he might thereby benefit both himself and his client, he would be guilty of trifling with sacred duties, and would be unworthy of his profession.

351. **The Judge and his Duties.**—If an advocate is obliged to co-operate for the triumph of justice, how much more is the judge himself bound to do so. He, to a greater extent than any one else, must be impartial and just. His heart must be closed to affection and sentiment, and his mind must be concentrated on justice, and on justice alone. Impartiality must be the essential attribute of his office. He stands between two contending parties, each claiming a right over something that really subsists only in one. Hence, it behoves him to closely consider their respective claims, and to carefully examine and see which side is in the right. In forming his judgment, and in pronouncing sentence, he must be prompted by right alone. His opinion being prudently and impartially formed, he must pronounce his sentence with manly fortitude. Woe to the judge, who, through fear, or speculative gain, casts aside the principles of justice, and wilfully pronounces an unjust sentence! Such a judge would be an enemy to the public good, an opprobrious usurper of civil power, a profaner of public authority, and a sacrilegious being. There is no law—either natural, divine-positive, or civil—whereby to excuse a judge who is guilty of pronouncing an unjust sentence.

352. **The Laws on which a Judge depends in his Capacity.**—Justice, as we have proved, is the first attribute of a judge in his capacity. With regard to this subject, the difficulty is, to define on what laws, civil or natural, he should base the justice of his sentence. Ought this sentence to conform with the dictates of civil laws, or with those of natural equity?

The solution of this question is very difficult; and we must be careful in distinguishing one principle from another. When the positive-civil law is silent in reference to the rights and possessions claimed by two opponents, the judge should, undoubtedly, form his sentence on natural equity. For, being placed at the head of society, to guide it for the public good, and to defend the rights of all its members, it is natural that he should fulfil his duty according to the rules willed and commanded by God, when no others are assigned to him. This statement, which, in cases of civil questions, is self-evident, appears capable of being adopted in criminal questions also; because it is not required that the pain, or penalty, in order to be justly and lawfully inflicted on a criminal, should be prefixed by the positive law. The chastisement, being a reparation for the injury to order, caused by crime, becomes a sort of restitution made to justice; and, as the culprit is not obliged to make it of his own accord, the supreme power may reasonably impose it upon him, when found breaking the laws, and thus oppugning the end of society.

When the positive law has established the rules, whereby, in certain specified cases, the rights of the citizens are to be understood, and the penalties for certain crimes are to be fixed, then the judge, even though he be the supreme head of society, must base his sentence on the laws established. In fact, it would be unjust to fix laws for all, and not to act in accordance with them. Such a proceeding would be against the order established; and to act in opposition to the order established is dis-

order, which is to be avoided by everybody. Civil laws constitute the order of society. Therefore, if they establish the conditions necessary for the validity of a transaction relating to the acquisition or the loss of property, and if they fix such and such a punishment for such and such a crime, it follows that the judge must not form his sentence in opposition to those laws. The supreme head may change the laws, but, so long as they stand unaltered, he must, in passing sentence, abide by them ; otherwise, the law would be resolved into absence of law.

When, as may possibly happen, there arises a collision between the positive civil law and natural equity, the judge should suspend his sentence, and, if he be unable to resolve the difficulty, he should refer its solution to the supreme power. However, that such a collision should occur in civil matters is very difficult ; because, in such affairs, the law may cause that to be just, which, without the law, might be unjust. Thus, the supreme power may create laws and titles to legalize the appropriation of a thing, which would not, according to nature, suffice to deprive an individual of his dominion, and to bestow it on another. An example of this is to be found in the law of prescription, which, though subject to several modifications in various countries, is universally admitted. Another instance may be had in the conditions prescribed for the validity of a contract, of a will, &c. Hence, we repeat that the judge ought, in civil matters, to base his sentence on the law.

A collision between natural equity and civil law may, in criminal matters, easily happen ; for, the civil power could not therein cause one who is innocent to be guilty, or *vice versa*. In these cases, if the law inflict a slight penalty for a great crime, or a severe punishment for a slight offence, the judge should follow the civil law; because it is the civil, and not the natural law, which empowers him to inflict a penalty. Again, if the civil law sanction

the condemnation of a man, who could not, because of his innocence, be rightly condemned, the judge, knowing his innocence, could not condemn him; because the natural law forbids the infliction of punishment on an innocent person; and to act contrary to this would involve a violation of the rights of nature.

353. **Can a Judge, knowing a Man to be Innocent, Condemn him, if judicially proved Guilty?** — This question has given rise to many disputes among learned philosophers. Some maintain that the innocent man should be condemned, because the judge's private knowledge of the innocence of one who is formally proved guilty has nothing to do with the personality of the judge, as a public man, who must base his sentence on the facts adduced, and on the law. Whatever be the opinions and arguments of others on this subject, we, on our part, guided by the dictates of reason, hold a contrary view; and we distinctly affirm that, in the collision of natural equity with the civil law, the judge is not justified in passing sentence. For, if he sentences the person, he acts according to the civil law, but against natural equity; and, if he absolves him, he acts in conformity with natural equity, but in opposition to the civil law. Under the circumstances, he should, as we have said before, suspend his sentence, and refer the case to the supreme power.

354. **Chastisement and its Species.** — The pain to be inflicted on the culprit is a corporal infliction, in reparation of the crime committed. Punishment always pre-supposes crime; and, in the crime itself, it is to be considered a moral good, although to the culprit and to those who witness the punishment, it is always a physical evil.

Chastisement, as a moral good, may be inflicted—*First*, to correct the criminal; and, in this sense, it may be called medicinal. *Secondly*, to deter others from the commission of crimes; and, thus, it may be styled

exemplary. *Thirdly*, to cause reparation to be made for the disturbance of public order by the commission of crime; and, hence, it may be termed *reparative*.

Generally speaking, every species of punishment may always possess in itself the essence of the reparation of injured order; because the pain or penalty is not inflicted, simply to appease the offended person, and to cause him to rejoice that the offender is deservedly punished. In this case, the aim of such chastisement would be irrational, and, therefore, against the order of things. The chief reason why the pain is inflicted is always to show the public disapproval of the crime committed, and to prevent its repetition. Hence, it is easy to infer that the infliction of punishment is conformable to the dictates of reason. Nevertheless, some of the pseudo-philosophers of this enlightened age maintain the contrary, and declare that punishments should be abolished, because, forsooth, immoral and pernicious to society. Verily, how much less evil would reign in society, were the infliction of pains and penalties further extended! As the robber disapproves of the spy, so the evil-minded man disapproves of chastisement. The impunity of crimes multiplies the iniquities and evils of the people. Moral force and education would speedily prove useless, if chastisement were not duly administered. It is, therefore, useful, wise, good, just, and dutiful, for the subject of power to adopt the most convenient punishment for every species of crime.

355. **The Penalty of Death, when Merited, is in accordance with Justice.**—A penalty is just, when, in its nature, it is generally efficacious in attaining the three ends of chastisement—*i.e.*, when it is medicinal, exemplary, and reparative. The pain is willed as a means to an end, and its justice is found in its sufficiency to accomplish that end. Guided by the above principles, we may safely state that the pain of death is just, when it can be considered medicinal, exemplary, and reparative.

tive. Moreover, there are certain crimes, to which not even the penalty of death would seem adequate, or sufficiently proportionate. Who is the philosopher that would not condemn to a thousand deaths, if possible, the wretch who has betrayed his country, whilst it was suffering under the yoke of an impious usurper? Who would not condemn to more deaths than one the vile assassin who has ruthlessly slain a father, a mother, and an entire family, either to usurp their goods, or to gain a base and cowardly end? In these cases, the infliction of death would be altogether disproportionate to the crime. But, if neither adequate, nor proportionate to the crime, then it is clear that, as there is no greater punishment than death, such punishment is just, and conformable to the dictates of reason.

Again, the pain of death is the most powerful means whereby to secure the vital interests of the citizens, because the hearts of some wicked men are so depraved that they fear nothing but death; nay, very often, they fear not even death. Common sense tells us that the public good of society is of greater moment than the life of a criminal. Indeed, if, for the preservation of the public good, a citizen were to nobly sacrifice his own life, he would be justified and honoured. Why, then, should not the life of a worthless criminal be cast away, when fatal to the public good? Does not common sense prompt us to remove decayed fruit from the midst of that which is sound, lest the latter be ruined by contagion? Do we not cut from a tree its withered branches, and remove from a garden all noxious weeds? Why, therefore, may we not cast out from the midst of society whatever is injurious, or fatal to its welfare?

What reasons can be adduced for the abolition of the penalty of death? None whatever, of any weight. Pseudo-philosophers would say, forsooth, that humanity must be respected. We do respect humanity; and, in consequence of this respect, we hold the abolition of the

pain of death to be fatal to the good of humanity. The annals and statistics of those nations in which the death penalty has been abolished form a corroborative proof of our statement. In those countries, suicides are multiplied to an appalling extent; robberies are of common occurrence; murders are frequent; and the principles of communism have already taken deep root.

God willed the existence of society, and of its power, for the acquisition of the public good, and for the defence of the rights of every member; but the pain of death is, in certain cases, the only means of attaining that end; therefore, in these cases, the forfeiture of life is indirectly willed by God, and is, consequently, just. Why feel more sympathy for the assassin than for the possible victim of the assassin's knife? The man who condemns capital punishment cannot be honest, for he is influenced and bribed by the allurements of his passions.

CHAPTER XII.

THE DUTIES OF THE SUPREME POWER.

356. If a king, or queen, in virtue of the supreme power, enjoys several special rights, it does not follow that either of them is exempt from duties. The supreme power involves important duties, to be literally fulfilled. In virtue of this supreme power, ruling sovereigns are raised above society, and yet are subject to numerous duties.

Before God and man, they are responsible for the welfare of society. Their high standing-place is but an office, with corresponding and proportionate duties. From God is derived the authority of command. It is He who wills that citizens be subservient to the commands of their superiors; hence the duty of obedience. It is God who imparts to one being, through other beings,

the authority to govern and lead the members of society to the attainment of public good. Therefore, the supreme power of rulers is an office, and, being established for the welfare of the people, it is of very great importance. But the idea of an office includes the notion of duty in reference to those who depend on it. Therefore, the supreme power is subject to correlative duties of great moment.

Let those, therefore, who hold this office, surround themselves with glory and majesty to any extent they may wish; but, at the same time, let them deeply consider the duties for which they are responsible before God and man. If they fulfil not these duties, they must be answerable for all the evils that may, through such an omission, overwhelm society; they must also be responsible for all the deprivation of good that may, through their neglect and evil management, accrue to society.

God, from whom the subject of power derives authority to govern, most rigorously exacts the accomplishment of those duties which are to be fulfilled for the welfare of society. Everything, in its order, ought to co-operate towards its end; and it should correspond with that end, in proportion to the greatness and importance of it. But the welfare of a nation is one of the greatest ends to be attained in society, and, for its attainment, kings and queens are created. Therefore, it is to them a duty of the greatest importance to endeavour, by the agency of the best forms of government, to obtain the great good willed by God in behalf of society.

357. General Duties of Kings, &c.—To enumerate, one by one, all the duties incumbent on the supreme power would be a difficult undertaking. Therefore, we will leave to kings the task of ascertaining them by their own prudence, aided by the wisdom of their counsellors. However, in the capacity of philosophers, we are at liberty to state that the most important duty resting upon kings, is to learn. The field of human knowledge

is of limitless extent, and, in proportion to each one's tilling and sowing, its fruits may be reaped. It is a fact that we know a thing, proportionately as we have studied it, and retained it in our memory; according to the ancient saying:—*Tantum scimus, quantum memoria tenemus.* Our memory, when not exercised, may be likened to a spade which, when unused, becomes rusty. Hence, in order to be learned, we must be constant in the exercise of our mental faculties.

If knowledge and wisdom are in some degree necessary to every human being, in order that he may be a useful member of society, how much more necessary are they for the head who rules the members. Hence, we see of what great importance it is to kings to acquire knowledge, in order to wisely direct society. We do not mean to say that they should be proficient in all kinds of literature, history, languages, &c. They should, however, at least possess a general knowledge of all that is requisite for the well-being of a nation. But no knowledge can be obtained without mental application. Therefore, a king must exercise his mind for the acquirement of knowledge throughout his whole life. This is a duty incumbent upon him by the law of justice; because, as he receives from the people all that is necessary for his state, they expect to be prudently directed by him in all things pertaining to the good of the nation. Again; this duty is imposed on him by the law of fidelity itself; for he cannot well and faithfully maintain the position which he holds, unless he be guided by knowledge and wisdom. Many of the valorous achievements of nations in past ages have been the result of the high mental culture of the reigning power; and, on the other hand, the decay of many nations is attributable to the ignorance of their rulers. Even in the most civilized countries, evil forebodings will arise, if rulers neglect this duty of acquiring wisdom, and if, laying aside mental culture, they give themselves up to feasting and pleasure.

358. Fundamental Laws to be observed by a King, in order that he may Rule well.—If the way leading to the acquisition of an end be evil and dishonest, it must not be adopted. Hence, the supreme power, when studying the best means whereby to attain the end of society, which is prosperity, ought scrupulously to consider whether such means, though useful, be likewise honest. Useful means, if dishonest, must be rejected.

Another fundamental law to be observed by the supreme power is, to do all that he performs in his capacity of ruler for one only end—viz., the promotion of the public good. The end of society being the attainment of such good, a king, who in his actions has not this end in view, or who acts in opposition to it, transgresses the limits prescribed by his office. Things are good and right, so far as they correspond with their end; and, as this end is always the propelling force of human actions, it is likewise always their rule. Therefore, all the actions of a king, as such, ought ever to tend towards the public good, according to the maxim :—**Salus populi suprema lex esto.**

When we say that a king ought to effect every possible benefit for the public, we do not intend to assert that he should sacrifice his own private interests and means, or that he should do anything detrimental to his spiritual and moral welfare. No. The king, remaining king, maintains his own personality. He is an individual. He is a man, and, as such, he has the right to promote his own interests, as well as those of every citizen.

359. Special duties of the Sovereign.—The special duties absolutely inherent in the personality of a sovereign may be reduced to the following :—

First. He must provide for the moral, religious, and civil education of the people. We shall not here repeat what we have already said, in reference to the necessity for moral education in a nation. Let it be borne in mind that the attainment of the end of society depends

principally on the religious and moral education of the people. Hence, it is a correlative duty of the sovereign to enforce it.

Second. He must insist upon the public worship due to God. We shall speak of the necessity of this worship, when we treat of natural theology, or of the duties of man towards God. We shall only remark here, that the head of society is bound to see that its members fulfil this natural duty towards God, on Whom depend all kings, and all subjects.

Third. He must enact just and salutary laws for the government of his kingdom. He must, moreover, cause them to be most rigorously observed by all the citizens, as well as by the administrators of justice. For, to possess laws, and to allow the members and functionaries of a nation to disobey them, would amount to having no laws at all.

Fourth. In order to receive the best assistance in the arduous task of ruling society, the sovereign ought to surround himself with able, wise, and virtuous counsellors. Woe to that country, whose sovereign power is hemmed around by a host of selfish, wicked, and crafty men, who make the well-being of the nation subservient to their own private interests, and who, to satisfy their own ambition and lusts, impiously sacrifice the welfare, both present and future, of a whole people.

Fifth. The sovereign should command his subjects with benignity, suavity, and firmness, and, in demanding the fulfilment of the laws, he should act *suaviter in modo, fortiter in re.* Not unfrequently, the manner in which a law is conveyed to the people seems even more burdensome than the law itself.

Sixth. He must see that distributive justice be administered by a division of rights and duties, of advantages and burdens, in degrees of proportionate equality. If the contrary should happen, society would yield to discontent, disapprobation, and uneasiness.

Seventh. The sovereign is bound to utilize in the best possible way the public revenues of the country. To squander a nation's money would be to commit an outrage against justice. The wealth of the people belongs not to the sovereign. It is the possession of rulers and of subjects alike ; and the mal-administration of it would engender disorder, and impose upon society new and intolerable burdens.

Eighth. The ruling power must encourage and promote trade, commerce, agriculture, literature, fine arts, &c. These are sources of wealth and of general prosperity. But let it be remembered that rulers must be impartial in bestowing favour and encouragement upon those who have distinguished themselves in those various branches. All subjects possess the same rights, and the ruler must have a just regard not merely for a few citizens, but for all. Hence, he must be fair and unprejudiced in the conferment of honours and rewards.

Ninth. Lastly, it is the duty of the sovereign to maintain peace and union among his subjects, and to keep on friendly terms with neighbouring nations. He must defend the rights of all his subjects in equal proportion.

When the members of a State are dissatisfied with the laws, either because uncongenial to their feelings, or because they evidently contain indirect injustice, let the head of the State forthwith interest himself in the people's trouble, and, if what they desire be just, let him grant their petition. To act otherwise would be to inflame the feelings of dissatisfaction already existing, and to rouse up hatred against the ruling power in the hearts of the people. This is always the harbinger of revolution and of social war. Let the supreme power consider the excellency of the well-known maxim : *principiis obsta ; sero medicina paratur.* “Withstand the beginning of evil ; after-remedies come too late.” As soon as a wound is received, a remedy must be applied.

In fine, the sovereign must be impartial and just to

all, and evince the same interest in those who dwell afar off, as in those who live in the capital ; for they are all, without exception, his subjects.

CHAPTER XIII.

DUTIES OF CITIZENS.

360. The duties of a citizen are those obligations which rest upon him, in consequence of his being a citizen, or a member of the social body of a nation. Now, as the quality of a citizen may have reference to three different orders of things in society, we will treat of his duties in three different articles. He has special relations in reference to all citizens, taken individually. He has duties which relate to the whole social body. He has duties referring to the supreme head. It is by the fulfilment of these duties that a citizen finds happiness in the midst of society, and enjoys his rights by participating in the public good. If every one were to fulfil his duty, prisons would no longer exist ; our large bodies of police might be disbanded ; the occupation of lawyers would, to some extent, be gone. If all acted in accordance with their individual duties, there would be an end of murders, suicides, robberies, &c., and the public annals would cease to record their tales of crime and woe. But, alas ! man has lost the knowledge of himself and of his end. Consequently, wherever the citizen is either ignorant of his individual duties, or, knowing them, is yet unwilling to fulfil them, we have to deplore a miserable state of society. **Man, know thy duties, and fulfil them.** For this end, the duties which every citizen must learn, in order to benefit both himself and society, are explained in the following articles.

ART. I.—Duties of Citizens towards each other.

361. Every citizen, as such, is obliged to fulfil, with

regard to others, all the special duties of justice and benevolence. This we have already proved, when speaking of the duties of man towards man. Every one is specially bound not to molest his fellow citizens in the enjoyment of their rights ; and, if they be in need, he must assist them. The aim of society is the temporal well-being of all its members. Without a greater security of rights, which all should possess, and without the certainty of receiving aid when needed, this temporal well-being could not exist. But that security of rights and that certainty of aid cannot be obtained, except by the co-operation of all for the attainment of the same object. Therefore, this co-operation becomes a duty incumbent on everybody, even though it may not be demanded by titles of gratitude and friendship.

362. **This Duty should not Degenerate into Socialism.**—It would be erroneous to extend the duty of reciprocal benevolence, with a view to establishing amongst our fellow-citizens perfect equality of rights and possessions. The system called socialism, or communism, would tend to create a universal family of all societies. As philosophers, we would, in the abstract, exalt it, and would sing forth the praises of such a theory ; but, in the concrete, it is something which, on account of the feelings and human tendencies of nations and races, could never be effected. Therefore, we reject it as a scheme pre-eminently Utopian, and altogether out of the order of possibility. For communism or socialism to exist in the world, there must be the absolute fulfilment of every duty by all the citizens ; but this cannot be obtained even under the control of the most liberal, most virtuous, and most religious governments ; much less, therefore, could it exist as the result of socialism. Man's tendencies, if not morally trained, prompt him to plunge into all kinds of excess. Selfishness is one of his natural qualities, and, when not restrained by efficacious laws and moral training, it would lead man to add more and more

to his possessions, without any concern about the rights of others. In this case, nothing could restrain him but physical force. Hence, the communism of tigers and hyenas would prove more effectual than the communism of men.

363. **Illegal trade is forbidden to all Citizens.**—If it is impossible to establish socialism, or equality of possessions in society, it is also anti-social to make use of society to enrich oneself by illegal trade, or by taking unfair advantage of the weakness, poverty, or simplicity of others. Hence, usury, falsification, extensive monopoly, extortions, &c., are odious in men who are guilty of these crimes. In fact, to adopt such means of acquiring wealth is to spurn the end of society, and to destroy the idea of citizen and citizenship. To act against the law of a nation is an evil deed. But the law generally and most emphatically forbids the above-mentioned acts. Therefore, he who selects and performs them wrongs society, and is guilty of crime.

364. **A Citizen should extend his Liberality to others.**—The unity of that moral body to which citizens belong seems to call for less rigorous justice, and more expanded liberality. In fact, it is undeniable that civil society must, either directly or indirectly, improve to a great extent the possessions of the citizens. It is in a great measure due to the government of society that we enjoy perfect dominion over our acquisitions. The enactments of the civil laws tend to produce this effect. If we were not in the midst of civilized society, our condition might be inferior to that of the savages of Africa. Therefore, if we are thus deeply indebted to society, we should make to it a return of gratitude. This we may do, by extending our liberality to those who are poorer than ourselves, and by using our influence to place them in the way of gaining an honest livelihood; for they too contribute towards the public good, and, in many cases, co-operate more than we ourselves for the attainment of

it. That which occurs in the operations of the members of the human body happens similarly in society. Some of the inferior members of the body perform functions of vital importance to the whole system. They thus contribute to the well-being of the nobler parts, which cannot be divided from the well-being of the individual. In like manner in society, if the husbandman, the tradesman, the artisan, &c., are well and prosperous, the entire social body to which they belong enjoys happiness and prosperity; and every citizen of every condition receives his share of the general good. Hence, each one must take an interest in rendering the social body healthy and vigorous in all its members; and from this interest arises the duty incumbent on every one to be liberal towards others, and not too exacting and severe in securing his rights, but even to be ready to make a little sacrifice in behalf of the needy members of the social body.

Besides those duties of a citizen which are derived from the essence of social life, every one must fulfil the commands of the civil law towards other citizens, relatively regarded as such. The reason is, because civil laws, when just, produce rights and duties in all; and because natural justice must be maintained amongst all. Thus, for example, if I have a prescriptive right, granted by the law, over the goods of another, I ought not to regret that the law grants to another the same right over my goods.

ART. II.—Duties of a Citizen towards the Social Body.

365. Of the many duties which belong to a citizen in regard to the social body, the first is the love of fatherland. By fatherland, we signify not only the place of one's birth, but the nation to which a person belongs. What we have said when speaking of individual duties may be applied also to this one. Native land is to us as a father or mother, under whose parental care and affec-

tion we may say that we are continually living, helped, nourished, protected, and guided ; therefore, a return of true and sincere filial love on our part cannot but be expected.

366. The love of Fatherland ought neither to be exclusive of our love for other nations, nor inferior to it.—As the filial love of a child ought not to stifle in him the love and justice due to all men, so the love of fatherland should not extinguish in the heart of a citizen the love and justice due to other nations. That exclusive benevolence for one's own country which engenders disapprobation, or dislike of everything belonging to other nations, is fanaticism. It is not true love of fatherland. The same nature exists in all mankind. All men are equals. They are descendants of one and the same family ; therefore, they are brethren. They all tend towards the same final end, and possess the same rights and duties. Therefore, between citizens and strangers there should be a reciprocity of love, esteem, and respect.

But, though it be fanaticism to like only that which belongs to one's fatherland, it would, on the other hand, be impious to diminish in others their estimation of our native country, or to excite in them hatred and prejudice against it. Such conduct would be on a par with that of a child who despises and hates his family, and who, therefore, prefers the well-being of others to that of his parents. This would be an act which no reprobative attribute could adequately qualify.

367. Duty of a Citizen to resist Social Rebellion.—To disturb society by endeavouring to cause sedition, or riotous conduct, is a crime whose guilt cannot be measured. Those, who either initiate rebellion, or take part in it, forfeit the very name of citizens. They become traitors and infamous wretches. Hence, it is plainly the duty of every good citizen to ward off and repel the attacks of these disturbers of the public peace,—

these enemies of the public good,—and to maintain and defend the interests of society. To remain indifferent, and to allow a rabble of lawless, worthless, hare-brained rioters to overthrow public tranquillity, and to endanger human life, would be altogether unworthy of those who love the sacred names of citizen and fatherland. Indeed, those men who remain indifferent in the midst of rioting and sedition, are nearly as guilty as those who first began the disturbances, and who continue to take an active part in promoting them. Each citizen is bound to assist in quelling the disturbances, and to prevent the fatal consequences which may ensue from them. Civil society is willed by God, and without citizens it cannot exist. But, to be a citizen, it is not sufficient to remain at home, and to quietly participate in the public good. A citizen must take an active interest in the existence, the preservation, and the healthy condition of the social body. He must co-operate with his fellow-men in the formation of that principle of action, or society, which is a living and active moral being. The man who does nothing in its behalf is not a true citizen, but a burdensome and decayed member of society. Those who remain neutral, when aid is required by the social body to which they belong, cannot be citizens; nor can they be excused from the guilt of a crime, for which they will be responsible before God.

If every citizen's love of fatherland were true and sincere, social tumults and rebellions would never occur; intestine wars would be unheard of; order would never be disturbed: and all the members of society would enjoy the fruits of public tranquillity.

The promoters of rebellion are, comparatively speaking, generally few in number. They could, therefore, for the most part, be easily checked by the law-abiding citizens and lovers of order; and, were the duty of each one resolutely and generously fulfilled, the enemies of public peace and security would be forced to cease their lawless, violent, and anti-social intrigues and outrages. With

society arrayed in action against them, and the law vigorously enforced, atrocity-mongers would speedily be constrained to put an end to their evil machinations.

368. Can the Promoters of Rebellion be Justified?—This is a question which, if examined in the abstract, is very difficult of solution; but, in the concrete, it may be thus resolved. When most of the social members of a nation are dissatisfied with its unjust laws, and when they wish some vital change to be effected in the administration of the public good, the idea of rebellion alters its aspect, and is considered as a public and necessary good. In this case, society itself claims new regulations, and improved administration.

In truth, civil society is directly constituted for the public temporal good. But that which is reprobated and rejected by the major portion of society cannot any longer be considered as a public good. Therefore, no power on earth, when in the minority, would be justified in resisting the will of the majority; for this would be to act against the end for which authority was constituted, and for which it is exercised. Of course, when speaking of the majority, we thereby mean the greater number of the active members of the social body, and not of worthless and useless citizens. In this sense, if the subject of power be merely persuaded that his own views, when carried out, would prove more beneficial to society, he would not be justified in opposing the majority. When a question has reference to the public welfare, no man has a right to maintain his private opinion against that of the majority; for, as we have already said, whatever is opposed by the majority can never prove to be the greater good.

369. The Duty of Beneficence towards our Fatherland.—If every citizen is obliged to love his fatherland, it follows that he must necessarily be of service to it, because beneficence is the inseparable child of love. Hence arises the duty, incumbent on all citizens, of

rendering to their fatherland the aid of their intellect, of their temporal goods, and of physical force. He who possesses the best means and the most wealth must afford corresponding help; but, in the case of a country's extreme need, everything must be sacrificed by everybody in its defence; for all, without any distinction of state, are members of one body. And, as the welfare of the body is that of each of its members, so, all citizens ought to sacrifice everything for the good of that body, of which they are the united members. To the man who has given up all he possesses, and even his life, for fatherland, let all due praise and glory be rendered. In like manner, let all benefactors of their native country be esteemed and venerated, and let their memories remain ever bright and fresh in the minds of its youth, that their glorious deeds may be emulated, and their example followed.

370. **Duty of Citizens to pay the required Taxes.**—From what we have said, it follows that, by the argument *a majori ad minori*, citizens are obliged to contribute their due share of all necessary public expenses. Many frequently demur against the imposition of taxes, and endeavour, in consequence, to spread discontent and dissatisfaction throughout the country. Unless they can clearly prove that the taxation condemned by them is unjust, their proceedings cannot be defended. In the case of any doubt existing as to the justice of a tax, we should always presume that our rulers act from just and honest motives in the fulfilment of their office. Hence, to declaim against taxation, when there exists only a doubt as to its justice, is productive of disorder, and, therefore, condemnable. Generally speaking, those who are loudest in their complaints about taxation are the very persons who expect, even for their private welfare, more than their share of the public good. But this is unlawful. *Ergo,—*

371. **Duty of serving in the Army.**—Owing to the treachery, deceit, ambition, and love of power, which

nations cherish in their bosoms, it is necessary for every nation to obtain a physical force capable of resisting an aggressor, and of preserving its own independence. The history of the world teaches us how necessary it has always been in past ages for nations to keep themselves well provided with soldiers, so as both to maintain order at home, and to command the respect of rival nations abroad. When families first united together to form society, one of their principal motives for so doing was common defence.

We do not mean to say that all citizens should become soldiers. No; but all citizens ought to contribute to the maintenance of a standing army, and, either directly or indirectly, take part in the defence of their country. There are some who maintain that military service cannot rightly be made compulsory, and that an enforced conscription is oppressive, and even unlawful. To us this theory seems absurd ; for, if a nation be poor, and have not sufficient means to provide mercenaries, who would undertake the defence of the nation ? It is evident that a country must depend for its defence upon its own resources. The existence and end of society are willed by God. Therefore, all the means necessary for the welfare of society, even to the sacrifice of a citizen's life, may be lawfully and justly exacted by the social body ; and he who should refuse his services for the end willed by God would justly be considered cowardly and irrational. The duty of defending fatherland is immediate to its citizens, who must all co-operate in such measure as the law commands. Those who employ an army solely for the purpose of conquest are only barbarians. But those who shrink from supporting an army, maintained for a just and lawful end, are no better than cowards ; and, being subject to the arbitrary power of others, without any hope of prosperity or perfection, they are unworthy of respect.

ART. III.—Duties of Citizens towards the Supreme Power.

372. Having understood what is meant by the subject of power, or by supreme power, and being acquainted with its office with regard to its social body, it will be easy to comprehend the duties of citizens towards their head. The supreme power has a mission to direct society to its end ; and it is thereby constituted not only the head, but, to a certain extent, the representative of society, and the subject of the will, rights, and interests of the people, from whom it has received its mission.

Hence it follows, that what a citizen owes to society is also due, in some degree, to the subject of power ; *i.e.*, in matters of public order and interest, every citizen is bound to obey the ordinances of the supreme power. It is God Who wills this, and what is willed by God becomes the absolute duty of all. It is true that, in matters referring to the natural order, the supreme power is always subordinate, as such matters do not depend on man. It is likewise true that the subject of power is frequently subordinate to the social constitutions, which have no dependence on him. Hence, in these cases, his will would not be binding, nor would his ordinances, therefore, have to be obeyed. Only in those things which are just, and which are within the limits of jurisdiction, is the subject of power necessarily to be obeyed. Otherwise, obedience would be paid to a man who pretends, and not to a power that obliges, because a pretender has received no commission or authority to command.

373. The Ordinances of the Supreme Power are always supposed to be true, until the contrary be proved.—It is very difficult to judge whether the ordinances emanating from the supreme power are just or unjust. In order correctly to do so, it is necessary that one should possess a thorough knowledge of the actual

state of society, of the wants and general feelings of the people, of the relations existing between one nation and another, of certain measures of economy, of commercial treaties, &c. Under these circumstances, every citizen is bound to obey the ordinances of the supreme power, until it be certainly known that they are unjust, useless, and grievously oppressive. The reason of this is to be found in the universal order established by God, Whose command is, **Obey thy superior.** God did not wish the opinion of the subject of power to be supplanted by the private opinion of any citizen. Otherwise, He would have subjected the head of society to the dominion of the other members of the social body; and the superior would thus be the inferior, and *vice versá*; which is absurd. But, as in the universal order there are not any absurdities or contradictions, so, it is God's Will that the inferior should obey the ordinances of the superior.

In the exercise of his obedience, the citizen ought to act as a man, and not as an automaton. But to act as a man is to act with prudence and circumspection, and according to the dictates of reason and conscience. Hence, he has the right to examine whether the ordinances be just or unjust; and, until they are manifestly rejected, on account of their opposition to greater reasons bidding the contrary, he is in duty bound to obey them. A citizen, by acting thus, will act as a man, and in accordance with the Will of God.

374. **The Citizen owes respect to the Sovereign.—** The social order creates many relations between the supreme head and the subjects, and demands that every subject should act in conformity with them. Many, influenced by their passions, fall into opposite extremes on this point. Some, through abject flattery, the offspring of egotism, are apt to confound the meanings of authority and personality, which are two different things. They are thus led to lavish upon their superiors un-

merited and excessive praise. Others, on the contrary, yielding to pride, seem to detest even the very name of sovereign. Now, these two evils ought not to exist in society. Reason tells us that we owe honour and respect to the subject of power, be he King, Emperor, or President; for, without respect, how can there be true and complete obedience?

Moreover, the very nature of the subject demands respect and reverence for the superior; because the social union has established many relations between superiors and inferiors, who are real and not abstract beings. It is, therefore, natural that, so long as society exists, these relations should continue, and that every one should keep his place in the order established. But, if respect for the superior is not entertained, these relations cannot exist; hence the necessity of esteeming the subject of power. A transitory act of obedience to the law does not suffice to maintain such relations. There must be a permanent habit of obedience, which is only obtained and preserved by the respect due to the sovereign. Again, we may repeat that, as in the human body the inferior members are subservient to the head and perform its will, so, in the social body, obedience is due to the will of the supreme power. As men, we are all equals; but, as citizens, we ought to acknowledge our position, and to be ever ready to render to our head dutiful and willing obedience.

The nature of citizens is not changed by the difference of their position in the social body; their duties and rights alone become thereby different. Every one remains master of himself, as all continue to be the servants of the Creator, and to obey Him in keeping themselves united in the bond of society, in the position assigned to them by God. The sovereign, while commanding, obeys; because he can only command what God orders. And the subject, while obeying, commands, because by obedience he rules over himself, and governs his passions. Let,

therefore, the King command, and the subject obey ; for the authority, whereby the former holds sway, is from God ; it is not innate in human nature. This authority is as sacred as that of a father over his son ; and, as it is impious in a son to be disrespectful and disobedient to his father, so it is criminal in a citizen to be wanting in dutiful submission to his lawful sovereign.

375. **Citizens owe fidelity to their Sovereign.**—That citizens should be faithful to their rulers is evident from what has been already proved. Fidelity to the sovereign is indispensable to the prosperity of a nation. A change of dynasty is always most prejudicial to society. The history of past ages corroborates this statement in a most forcible manner. Hence, an honest and conscientious citizen, who earnestly desires the public good, must necessarily respect, love, and be faithful to his King. The contrary would prove dangerous and fatal to society ; just as a human body would speedily meet with destruction, if its members were to act in opposition to one another.

376. **Citizens are bound to defend their Sovereign.**—Were the supreme power to come into collision with turbulent men, desirous of depriving him of his possessions, and even of his life, it would be the duty of every citizen to prove his loyalty towards his sovereign by standing forth in his defence, and even, if necessary, by taking up arms to repel the attacks of his rebellious foes. This duty belongs to the subjects, on the ground that it is to their own interest to maintain order, and to protect the public welfare, which would be injured by the action of rebels. Hence, as by defending the King they uphold order and ward off public disaster, so, the protection of the sovereign becomes to them a special duty.

Besides the duties already mentioned, there remain many others relating to the various positions of men in society, and to the special offices both of members among themselves, and of the different subjects in reference to

the supreme power. But we are philosophers, and not jurists. To the latter, therefore, the reader must have recourse, if he wishes to learn the special duties referring to particular cases outside our scope.

CHAPTER XIV.

RELIGIOUS SOCIETY: ITS FUNCTIONS AND DUTIES.

377. Religious society is the union of many members under the guidance of one supreme power, for the worship of God by the profession of truth, and by the observance of corresponding duties, in order more easily to obtain one's final end. The remote aim of this association is eternal happiness; the proximate aim is to honour God by the practice of religion, which is the only means of acquiring eternal happiness.

In this society, as in all others, there must be a head and members; also a power to guide all, which is its form; and a multitude to be governed, which is its matter. The religious power is termed priesthood; and the persons who hold it are called priests. This power directs religious society as a King does in civil, and as a father in domestic society.

378. Object of this discourse.—Although there should be only one religious society, yet there exist many. Owing to the different teachings of men, these societies differ from one another; and each one, for the most part, derives its name from the founder of its new doctrine. Upon this point we do not intend to dwell. Neither do we speak of the one religious society supernaturally established by God upon earth; because, as philosophers, we have only one object—viz., to demonstrate by reason what is according to nature, and not what is above it. Hence, although from reason we learn

that, God having established a religious society, it is no longer lawful for men to invent others ; still, we must decline from entering into any discussion on this matter. Our sole object is to prove what we should do, if God had not established among men any religious society whatever.

Before commencing this subject, we may state that, according to reason, religious society cannot be but one ; because its end, as well as the means of attaining that end, is always the same.

Again, if we admit that God did not establish a universal religious society, without any obligation to cling to it, then it would not be against the universal order if men were not joined together under the same numerical direction, in order to honour God, and to attain their final end. In this case, men might be justified in forming several religious societies under different heads, in the same way as they form various civil societies.

379. **The Religious and Civil Societies differ from each other.**—This is evident from the different ends of each. The end of religious society is specifically distinct from that of civil society ; and, in both, the means adopted for the attainment of their respective ends are specifically different. The direction for the accomplishment of their aims, the mission of their subjects of power, and the matter over which their authority is exercised, are all different. But, as regards the end and the means, specific and substantial differences cannot exist in one society. Therefore, between the religious and civil societies, a difference must necessarily exist.

Although, between the religious and civil societies, there is a formal distinction, nevertheless, it is not absolutely necessary that, in their head or members, they be materially distinct ; because, after all, religious society is formed only of men, and men ought to belong to civil society.

Therefore, in reference to the persons who, according to the natural order, might together have established, under the same concrete power, the same religious society, we say that they might have been found in the following relations to civil society : (a) They might all have been members of the same civil society, in the one order in which they are constituted, and whose subject of power is in the hands of the same person. (b) They might all have been members of the one civil society, in an order different from that which they maintain, on account of its religious power, which, being distinct from the civil power, is in the hands of others. In this case, the superiors of the two societies would, without involving any contradiction, be dependent on, and subject to each other. Hence it appears that, although the above associations are formally and essentially distinct from each other, yet, materially speaking, they need not be different. In other words, religious society is, in the order of nature, absolutely independent of civil society ; and, to the former, people of various nations, and of various civil societies, may adhere, without ceasing to be members of the civil association to which they really belong.

380. Duty of belonging to Religious Society.—As, by the law of nature, men ought to connect themselves with civil society, so it can also be proved that, in virtue of the natural law, they are obliged to belong to religious society. Many philosophers have striven to prove the contrary, by asserting that, in joining such society, one cannot co-operate in promoting the spiritual good of others. They say that the path which leads to the acquisition of perfect happiness can be obtained only by the observance of the law of God, and by the attainment of merit ; but, as no one can either merit or observe the law for another, there is no necessity of joining religious society.

The fallacy of the above statement is at once apparent,

if we consider that the truth, as a means to the final end, is to be acquired by all men, as willed by God ; and that the individual should learn the truth, by the best means given him by God to obtain it. But one of the surest means of discovering the truth is the union of many men under one head. Therefore, every one is obliged to join that society whose aim is to impart truth, to defend it against the teachers of error, and to lead all to the attainment of their final end. No other society than the religious, aims at all this. Hence, to belong to religious society is a duty incumbent on all human beings. Moreover, as these religious societies are so numerous, there remains still one more duty to be performed by us ; it is, to earnestly and carefully examine which amongst so many is the most pure, the most true, and the most holy in its teaching ; and, having found it, we are bound to embrace it, and to become members of it.

381. *The Religious Power and its functions.*—On the hypothesis that God did not immediately Himself establish religious society, it might, through the consent of men, have sprung into existence from civil society. They might have formed it, as civil society is formed ; because, in this case, they would only have followed the dictates of nature.

Let us for a moment suppose that religious society was a human institution. It will then follow that its power should have the same origin as civil society, and that it would partake of those prerogatives which are inherent in the supreme power—viz., the legislative, judiciary, and executive powers ; with this exception, that the executive power should be less exacting than it is in civil society ; because the good to be obtained in religious society is generally a private good ; and, consequently, in it, there is less reason for the use of force against the individual, since, thereby, he would not attain that private good. Moreover, physical force is not a means adapted to cause others to adhere to a practice and doctrine in

which they do not wish to put faith ; and if, by the teaching of pernicious doctrines, the public good were to be assailed, then it would belong to the civil power to exercise its coercive influence to prevent such teaching. Therefore, the utility of physical force belongs only in a faint manner to religious society.

382. Relations between the Civil and Religious Societies.—If the religious and civil societies both kept their positions, exercised their respective powers within the limits of their jurisdiction, and showed regard for each other in the use of their own rights, and in the fulfilment of their own duties, all possible collisions between the two would be easily averted.

However, if the commands of one be not useful to the other, then civil society ought to observe silence, and allow religious society to have precedence in the exercise of its rights. And, if the former, either through ignorance or malice, were to enact laws opposed to those of the latter, such laws would not be binding on the part of the subjects. The reason is, that, the end of the religious society being of greater importance, and of a higher order than that of the civil, it is natural that the value of the means, the right of using them, the authority of imposing them, and the duty of accepting them, should be maintained in the same order.

383. Honour is due to the Ministers of Religious Society.—From the conclusion of the above statement, it follows that he who holds religious power, and exercises its functions in the administration of religious benefits, ought to be esteemed and venerated, even to a greater degree than is the supreme power in civil society. For although, as members of civil society, ministers of religion are citizens, and are, therefore, obliged to comply with its laws and statutes, nevertheless, on account of the noble part they fulfil in religious society, they have a special claim upon the respect and esteem of all other citizens.

Indeed, the ministers of religion, by the fulfilment of

their sublime duties, not only promote the private good of individual citizens, but they are likewise of the greatest utility in helping to secure the public good. Without the co-operation of zealous, self-sacrificing, and truthful clergymen, the public good would be most difficult of attainment. The external is always the effect or manifestation of the internal life of man. Hence, it would be almost impossible for a man to be uniformly just, peaceful, charitable, and obedient, were not his heart and mind imbued with the principles on which these qualities are based. But such principles, although philosophically taught and seen, and legally inculcated by the power whose object is merely public interest, could never be sufficiently rooted in the human heart, except by a special power, whose object is to lead men to the attainment of their final end ; and this power is inherent in the priesthood. Human passions can be bridled, and men can be induced to fulfil their duties in the highest degree of perfection, only by the thought of an existing Supreme Being, and of eternity. But, for the implantment of these truths in the human heart, the priesthood was established. Therefore, because ministers of religion thus promote the public good, they should be esteemed and venerated, in order that they may be the more encouraged to perfectly fulfil their sublime and important mission.

Hence it arises that the civil power owes to the priesthood not only justice, protection, and aid, as to society in general, but also due honour and respect, in order to promote the same amongst all the members of society. It follows, moreover, that clergymen should not be employed in any kind of strictly public services, as they already co-operate, to a very great extent, in the attainment of the public good, and as they already bear upon their shoulders, for the welfare of society, a very heavy and inestimably precious burden.

It would appear also to be according to the reason of convenience, that clergymen, when unhappily guilty

of crime, should be exempt from trial in the criminal court ; and that it should be left to the executive religious power to judge and punish them, according to the religious code. Thus, the respect and veneration due to the whole priesthood would not be so much diminished as it would be, if its members were tried as all other citizens. And be it observed that we say, in the criminal court. There is no objection to their being tried in the civil court ; for, as regards the obedience due to the civil power, they are citizens equal to others, and, therefore, subject to the same code as others.

384. **Special Duties in Religious Society.**—It is manifest that the members of religious society are especially bound to fulfil the reciprocal duties of justice and charity ; for these are the essence of such society. Moreover, by the example of its members, others may be induced to practise virtue, without which the end of civil and religious society could not be attained.

Citizens ought to reverence and love their pastors as their best friends, and to obey them in everything that can promote the spiritual welfare of all. They are also bound to contribute to the support of their ministers, and to aid them in the works necessary for the public worship of God, such as the erection of churches, &c. In fine, the members of religious society ought to endeavour to fulfil all the duties conformable to the doctrine and laws of that society ; for this is the end for which they joined it.

Although, in treating of this subject, we intended only to lay down principles in conformity with natural reason, still, before concluding the treatise, we cannot but offer to the reader, no matter what may be his religious views, a few sincere words of advice. There is in the world a supernaturally revealed religion, which is one, as there is only one God ; because God is truth, and truth cannot be error ; it must be one. Hence it is man's duty, as dictated by reason, to discover truth, and to abide

therein. If there is a nation under the sun, where religions seem to grow like fungi,—that nation is our own. Even in the bosom of a single family, a great variety of religions may be found ; the father may belong to one ; the mother, to another ; and each of the children may suit his own taste. In this collision of different religious opinions, where is the truth ? It can be but in one religion. It cannot be in all, because they differ substantially from one another ; and where there is a substantial difference, all the contraries cannot be true ; because truth can be only one. What is supernaturally revealed must be always true, always the same. Therefore, as the religion revealed is but one, it behoves every one to endeavour to discover it, and therein to fulfil the important duties willed by God, for the acquisition of the final end.

In order that a willing and earnest mind may, with unerring certainty, discover this one revealed religion, it must carefully examine and discern the characteristic marks necessarily inherent in her. These marks are four, viz.,—(1) **Unity**. That is to say, all her members must agree in one Faith, must be all in one communion, and all under one head. (2) **Holiness**. She must teach a holy doctrine, invite all to a holy life, and must be distinguished by the eminent holiness of great numbers of her children. (3) **Catholicity, or Universality**. She must subsist in all ages, teach all nations, and maintain all truth. (4) **Apostolicity**. She must have come down by a perpetual succession from the Apostles of Christ, and must have derived her doctrine, her orders, her communion, and her mission from the Apostles, who received them immediately from the Godhead.

That religion, therefore, which, amid so many forms of religion, is found to be **One, Holy, Catholic, and Apostolic**, must be the only true revealed religion ; and it is the duty of those who belong not to it, to find it, and embrace it, and enter within its fold.

BOOK III.



INTERNATIONAL DUTIES.

CHAPTER I.

INTERNATIONAL DUTIES IN GENERAL.

385. By international duties, we mean all the obligations existing between nations; or rather, all those duties that people of different nations ought either to reciprocally perform, or to omit. All men, whatever may be their nationality, are indiscriminately equals. Consequently, as members of different social bodies, they are bound to fulfil among themselves those duties which exist between men in the same society. International duties may be said to substantially differ in no way from individual duties; and, if there is a difference at all, it exists only in the subject—that is to say, instead of being an individual, the subject may be the state or nation, or all its individuals united in one body.

386. **Judicial Equality between Nations.**—The foundation of the duties existing among peoples is the same as that of the individual duties existing between man and man—viz., natural judicial equality. In fact, perfect societies consist of men united together, not to promote the welfare of others, but rather to provide for themselves a greater good. No nation therefore has the right to exact from any other nation subservience to itself. On the contrary, it is the duty of every one, so far as it is in the order of possibility, to strive that such and such people may attain the end for which God commanded them to form society.

The material inequality existing between nations may cause the existence of an overwhelming power on the part of one nation over another; but never so overwhelming as to destroy judicial equality, and thus to destroy the sameness of reciprocal rights and duties. The exercise of

rights, and the fulfilment of duties are to be observed by every nation, in proportion to its strength. But the reason of the possession of such rights and duties is the same for all nations ; consequently, there must exist among them judicial equality. Should a less powerful nation be obliged to observe some special duty towards one more powerful, the latter is bound in return to be more kindly disposed towards the former. As regards independence, liberty, rights and duties of justice, &c., there must exist in all nations, without exception, perfect equality ; for they are all independent.

387. Love and Respect due to Foreigners.—As association maintains among nations the natural equality which exists between individuals of the human genus, it follows that, if one person belong to one nation and another to another, they will still maintain among them those natural relations existing between men. Hence, if association has produced in a citizen some special duties and rights in reference to another, still, this does not destroy the duties which he owes to the members or citizens of another nation ; nor does it give him any right or superiority over them. The love and respect due from man to his fellow-citizens ought, therefore, to be extended towards the members of any other society or nation, be it either strong or weak, learned or unlearned, prosperous or poor, &c. The vices and follies of other nations must be spurned, but, nevertheless we must love the persons belonging to them, and respect their customs, whilst avoiding their repulsive habits. All nations have a climate, a temperament, and a method of education peculiar to themselves, and, consequently, they have special wants and tastes. It would be childish, therefore, to appreciate only one's own manners and customs, and to despise those of others, or to show disrespect towards a foreigner on account of his peculiar habits, provided he thereby give offence to no one. Similarly, were a foreigner to display any con-

tempt for the habits and customs of the people amongst whom he resides, he would evince a lack of morality and civility, for he would thereby stifle those feelings of love and respect which all human beings should entertain for one another.

In addition to the reasons already mentioned why love and respect should be shown to foreigners, there is another of still greater importance. An offence or injury done to a person of another country, or by a foreigner to a citizen of the country in which he resides, contains a greater degree of malice, in consequence of the offence being committed in reference to a moral body, and it might, therefore, produce fatal results to society.

388. We must not Envy the Trade of other Nations.—Nothing is more common among States advancing in trade, than to look with suspicion upon their neighbours, and to consider all commercial countries as dangerous rivals. This arises from the supposition that one nation cannot flourish, except at the expense of another. Against this malignant sentiment we assert that an increase of riches and commercial prosperity in one country, instead of injuring, generally promotes the wealth and trade of all its neighbours. No State can extend its trade or industry very far, if all the surrounding countries are steeped in ignorance, sloth, and barbarism. In fact, when open communication is carried on between nations, it is impossible that the domestic industry of one should not be promoted and increased by the advancement of the trade of others. Wherever an abundance of commodities is procured and perfected for the home market, there will always be a surplus quantity to be advantageously disposed of abroad. But if the neighbours of an industrious State possess neither art nor cultivation, they cannot import the goods of others, because they can give nothing for them in exchange. In this respect, States are in the same condition as individuals. A single person has but little encouragement for industry, if all

his fellow-citizens are idle. The riches of several members of a community contribute to the increase of the wealth of others, whatever may be their trade or profession. Thus, there is a mutual interchange of the results of everybody's resources and industry. No State need be apprehensive lest its neighbours may prosper to such an extent as to have no demand for its arts and manufactures. By the creation of a diversity of intellect, of climate, and of natural resources, mutual intercourse between nations is fully secured, so long as they all continue to be industrious and civilized. The more the arts of any State increase, the greater will be the demand for them from its thriving neighbours. The inhabitants of a country, having become skilful and opulent, desire to enjoy every commodity in abundance and perfection, and, being able to offer their own products in exchange, they make large importations of goods from every foreign country. Thus, the industry of all nations is encouraged and promoted by this continuous flow of imports and exports.

Emulation between rival nations tends to maintain industry and activity, and a people's happiness is increased by a variety of manufactures. If the spirit of industry be preserved, it may easily be diverted from one branch to another, and thus an intelligent, striving, and hard-working nation will ever increase in happiness and prosperity.

389. Duty of all Nations to Progress.—The idea of progress is comprehended in the word civilization, by which is understood the fact of physical and moral development. The word immediately suggests the idea of improvement, or a change of condition for the better. From its etymology we see that it means the perfecting of civil life, the development of civil society, and of the relations existing between men. It signifies also the development of the individual and internal life of man himself, of his faculties, his sentiments, and his ideas.

A country's progress and civilization depend on two conditions, and are distinguished by two symptoms—viz., the moral and physical organization of individual, domestic, and social activity. In fine, by progress is meant the continual amelioration of the individual, of society, and of humanity.

The individual is the first and simplest element of society. If he be not well constituted, or if he be unappreciated, or misunderstood, he will be an obstacle to progress, or real civilization. Hence, it is the duty of all nations to provide for the individual the best moral education, and to offer to society the most efficient moral and physical means of obtaining and nurturing good manners and customs, virtuous inclinations, and noble feelings; for these are the safest and surest guides to moral and physical progress, or civilization.

CHAPTER II.

DUTIES OF INTERNATIONAL JUSTICE.

390. Among nations there is a law of Justice. There exists without doubt in every country and in every individual some special property. Between countries, as well as between individuals, there is as great a difference as between one being and another. Therefore, every one has his own special faculties,—his own property. The law of justice is that which commands all men to respect the property of others, and to give every one his own; and so, there must exist between nations a law of justice. Hence, one moral being, or social body, ought to respect the property of another, and to allow it the full enjoyment of its property. In order to demonstrate the extension of the law of justice between countries, and their correlative rights and duties, we

need only assert the possessions of every nation, or rather establish the matter of international justice, and show what all can do to preserve their own property, and to claim it when usurped by others.

391. What is meant by Nationality?—By nationality, we do not mean a number of people speaking the same language, or dwelling within the same geographical limits. Language and territorial confines are not sufficient to cause a number of families to form a social body; neither could they make a real division of nations. By nationality, we signify a union of people under one head, and depending on that head as the supreme power. In this sense only is there a real society, a distinct moral body, a subject of life and operation.

392. National Independence.—On the ground that the supreme power causes the people depending on it to be a moral body, distinct in its order, and different from all other bodies of the same species, it becomes manifest that independence is one of the most essential properties of a nation. One country possesses no right over another. Hence, any effort directed against the independence of a nation would be an offence against justice. A nation that subjects another by force, whatever be the name given to this arrogated dominion, becomes a usurper, and, by robbing others of their property, and depriving society of its ownership, it offends against justice. Such a usurper is a destroyer; for a people subjected to the government of another is no longer a distinct nation, but part of another people, no longer a moral body, but belonging to another.

Nevertheless, such a subjected people will not, until it gives its consent, be a formal part of the body with which it is incorporated. And, as a robber who neither makes restitution, nor is condoned by his victim, is always considered a robber, so, the usurper of a nation will always be looked upon as a tyrant, until the people

are either restored to their independence, or until they explicitly or implicitly consent to be ruled by him.

The right of independence is the same for a weak nation as for a strong one. Hence, the jurisdiction exercised over small States by great ones, under the pretext of defending them from the ambition of others, is an act of injustice, even though such assumption of power be styled a **Protectorate**.

Protection is rightfully accorded to those who are in need of it; but it can never be justly imposed on a reluctant power that directly refuses it. Moreover, the protection granted to petty States, or weak nations, is accepted by them, only in order that their property may be defended against usurpers. They are not, on that account, to submit either to dictation, or to interference in their mode of governing. To rule a moral body, under the pretext of guarding it, is at once an act of oppression, and a robbery of national independence.

393. **Liberty** of every State in its own affairs.—**Liberty**! This is a word which is as much employed as it is little understood, and, because it conveys a certain vague idea easily conceived, it presents the illusion of perfect clearness. Moreover, on account of the multitude and variety of objects to which it may apply, it is susceptible of a variety of meanings, and, consequently, it is extremely difficult to be understood. The air circulates freely; we stir the soil around a plant to give it liberty to grow; we clear out the bed of a stream to allow it to flow freely; we have free methods, free thoughts, free expressions, free actions, and free will.

Whatever be the acceptation of the word **liberty**, it always implies the absence of a cause restraining the exercise of a power. Hence, in order to apply to certain cases the exact meaning of the word, we must necessarily consider the circumstances, as well as the nature of the power, whose exercise is to be either prevented, or limited. Moreover, we must not lose sight of the various objects

to which that power refers. We must consider the conditions of its exercise, as also the character, force, and extent, of the means employed to restrain it.

Hence we say that, as every nation has the right of independence, so, when the rights of others are not interfered with, all must exercise liberty of action, to the full extent of its meaning. No one has any right to molest the perfect liberty possessed by individual nations, for we are commanded to grant unto all whatever is due to them,—their masterships, their independence, and their liberty; because all these are properties belonging to a moral body. One nation has no right to interfere with another, either with regard to its internal constitution, its form of government, or its election of the supreme power; nor must it meddle with another nation's works of utility, its public security, its treaties, or its alliances. In these, and similar operations of public interest, and social life, every nation is free to act as it deems best, without the interposition of other nations. To arrogate right, jurisdiction, and superiority over those whom God made independent, and who are equals, constitutes disorder. But disorder, whether it exists amongst individuals, or moral bodies, is always a moral evil, because God wills order to be maintained by all. Therefore, people and nations should possess perfect freedom, without any interference on the part of aliens.

394. International Law.—From the above statement may be seen the necessity for public and private international laws. These consist of such rules as the members of independent nations may mutually agree upon, for the fair and just regulation of their dealings with one another, in times both of peace and war, so that liberty may not be crushed. These existing public and private international laws may be modified by treaties of peace, alliance, and commerce.

Generally speaking, all sovereign States are equally under the control of international laws. Each State has

the right to demand from its own people military service, and to develop its resources in whatever way it deems best, so long as it does not interfere with the same equal rights of other nations. Each State has the natural right to make its own laws. On the sea, both public and private vessels of every nation are subject to the jurisdiction of the country to which they belong. With regard to crimes, and the chastisements due to them, although each State can inflict punishment for crimes committed within its own territory, yet it cannot arrest one of its own citizens in another State; to do so would be to invade the municipal law of that country. Hence, without the permission of the State in which the criminal is, he cannot be arrested; and there exists no obligation to grant such a permission. Hence we see the expediency of a treaty whereby two States bind themselves to give up to each other those criminals who have been guilty of certain specified offences, and who have sought refuge outside their own country. The public international laws also refer to certain customs, or ceremonials of respect, observed in particular circumstances by one nation towards another; and these are founded on the theory of the equality of sovereign States. They likewise have reference to the rights of States in time of peace and war, by legation, negotiation, interference, neutrality, &c.

By private international laws, we mean a collection of legal enactments regulating the mode in which ordinary courts of justice administer remedies, and secure to persons such rights as have been either partially or wholly acquired in a foreign country, where different legal appliances must otherwise have been necessarily used. In such cases, the seat of justice which administers punishment, acting on what is styled the courtesy of nations, or *comitas gentium*, endeavours to place the persons in the same position as if they were bound by foreign laws, and it gives effect to those laws, so far as

they do not, in essential principles, conflict with native legislation.

The fundamental reason underlying this branch of law is, that every subject of a foreign independent nation is entitled to the protection of his own laws, so far as is compatible with the equal independence of the State whose courts administer the chastisements. Hence, although a court can, in general, administer only the laws of its own nation, it may, *pro hac vice*, incorporate part of the foreign laws in its own code. Accordingly, in carrying out this doctrine, certain fair and equitable rules are adopted in dealing with foreigners specially situated, and chiefly affected as regards marriage, death, intestacy, contracts, and punishments.

395. Inviolability of a Nation's Territory.—It is in accordance with the dictates of reason that everything belonging to a moral body should be respected. But the territory of a nation is the property belonging to the personal body. Therefore, it must be respected. The territory of a nation is to its people what a house is to a family ; and, as no one has the right to take possession of the residence of a family, or otherwise to exercise acts of jurisdiction over it, so, the territory of a nation is likewise inviolable. Nor is only the territory of a nation inviolable ; but its riches, possessions, and public property are also to be held sacred. Hence, any deprivation or plundering of the goods of another nation, unless justified by international rights, would be an act of injustice and robbery ; because among nations, as among individuals, the same laws of property and justice exist.

396. Smuggling is contrary to Justice.—Either citizens, or aliens, would, by patronizing, aiding, or practising acts of smuggling, be guilty of an offence against the property of a nation. Even when the laws prohibiting smuggling are simply penal in reference to citizens, either the importation, or exportation of goods against the laws of a nation is contrary to justice. In

this case, the laws are made with regard to private individuals, who, when proved guilty of the act, are subjected to a fine. But such laws could not be binding on another nation when encouraging smuggling. Therefore, it is evident that, as by the favouring of it, the public treasury would be defrauded, so it would be unjust in another nation to encourage, or aid smuggling, unless the contrary were approved by customs, or international agreements.

397. **To improve Commerce by Force is not Unjust.**—Though, as we have said, another nation acts unjustly in helping or encouraging smuggling, when either the importation, or exportation of goods is contrary to the laws and interests of a people, still, it seems that a nation would not act against justice, were it, even forcibly, to open commercial relations with another country, if the latter would not accept them. This we shall very clearly prove.

Men are all brethren. They have received from God reciprocal duties of love and beneficence. No man can destroy these natural relations, or dispense others from fulfilling them. No man can prevent another from participating in the love and beneficence exercised by others, or forbid him to evince these feelings towards others. Not to admit this would be to deter men from obeying the command of God to render mutual aid. If men join society, they do so to attain a greater good. This does not imply that they are thereby prevented from communicating with the members of other nations, or that the doors of charity and beneficence should be closed against them.

Hence, if a nation were to prohibit commerce between its own people and those of another nation, either by forbidding the exportation of its own produce, or by preventing the importation of the goods of others, the supreme power of that nation would act against the natural principles on which society is based. In this

case, the antagonistic nation might, even forcibly, import its goods, for, by this act, there would be no usurpation, but only a manifestation of rights. That is to say, the people of such a nation would object to, and resist an impediment against the order established, being unwilling to be obstructed in dealing with all men, as, according to nature and reason, they are at liberty to do. Without a doubt, it is in accordance with reason and nature that men should draw nearer to one another, reciprocate benefits, and barter their goods with mutual consent and satisfaction ; and, as one person cannot forbid another to exercise towards him love and benevolence, neither can one nation prohibit another from acting similarly.

However, a nation may forbid the exportation of goods which are absolutely necessary for the wants of all the people. Such a prohibition is not opposed to justice, because it is directed towards the promotion of the public good. What we maintain is, that neither the importation, nor exportation of what is superfluous can be rightly prohibited, unless there be extraordinary reasons for justifying the prohibition.

398. Every Nation has a Right to its Honour.— Honour is likewise one of the many properties belonging to a social body. The whole body participates in the virtues and prerogatives of its members, as each member cannot but feel any evil caused to the body. Hence the right that a nation has to be respected by others. Calumnies and detractions hurled against a country are offences against justice.

To insult a nation's flag, or one of its ambassadors, or even one of its citizens, as such, is an opprobrious act, giving to the nation thus insulted the right of demanding, and even of enforcing an apology. That it is right to exact such reparation is sufficiently shown by the need and the duty resting upon a nation to maintain before others its good name and fame.

399. Nations must be Truthful in their Transactions.

—Justice between nations is offended by deceit, misrepresentation, and falsehood. An untruth, in international relations, contains enormous malice, because error is thereby more widely diffused ; and because, in these relations, a frivolous or playful falsehood could never be admitted.

We allow that a diplomatist should be continually on his guard against being deceived ; but, at the same time, we solemnly assert that to use deceit and falsehood in his official capacity, thereby to promote his country's welfare, is an abomination, and an abuse of reason. By eloquence, rhetoric, and argumentative power, he may possibly win the consent of a nation, or nations, to his proposals ; but let him remember that a lie, however gorgeously clothed in the garb of gilded speech, ever remains a lie. We speak thus, because, in these days, there appears to be a disgraceful lack of truthfulness in diplomatists, who, in order to gain the reputation of ability, and to effect a nation's designs, shrink from hardly any stratagem, be their arguments true or false. And yet, it could hardly be believed that those who sit in high places, and whose voices re-echo in the noblest edifices of a nation, could make use of an argumentation in which vulgarity utters an odious and loathsome lie.

400. Nations ought faithfully to keep their Promises.—When a transaction between nations has been entered upon, it should be faithfully carried out by each of the entire countries that are parties to the transaction ; because, as all the citizens of a nation, through their diplomatist, have concurred in the formation of the transaction, so, all are bound to concur in its fulfilment. These international compacts, being, in their nature, of graver importance than private agreements between individuals, involve a more solemn obligation of fulfilment.

401. It is not contrary to Justice to receive Emigrants.—Citizens naturally belong to the country in

which they were born, and being members of its social body, they cannot leave it from a motive of mere caprice. The advantages which they have derived from it, together with their feelings of gratitude, should influence them to remain in it. Society exercises over citizens a certain right, whereby it may forcibly resist those who attempt to draw them to other countries.

However, notwithstanding the obligations which bind a citizen to his fatherland, he does not lose mastership of himself. In joining society, he did not sell himself to it. He retained his natural liberty. Hence, whether it be lawful or unlawful in him to leave his native land, it is certain that those who receive and enrol him amongst their own citizens, are not guilty of any injustice against other nations. The nation which receives him does not thereby acquire what belongs to others. It attaches to its body, as a member, one who is master of himself, and who may have been prompted by good and urgent reasons to quit his native country.

401. Is it Lawful to Harbour Criminals of another Nation?—What we have said about emigrants may be applied also to criminals. To receive these fugitives is not, in itself, contrary to justice; for, in many cases, it might be an act of true charity which nations ought reciprocally to maintain. Still, a distinction must be made.

To shelter fugitives, solely in order that they may escape the punishment of their crimes, or, what is worse, in order that they may, with greater facility, concoct and regulate new anti-social machinations against their own country, would, in itself, be a crime against justice and charity; for the object of such hospitality would be not to give refuge to the miserable, but to confederate with wicked traitors. This is a crime whose malice can bear no comparison with the evil resulting from the same species of action among private individuals.

But, if the refugee has no intention of plotting against

his country, then, however great may be his crime, there can be no injustice in harbouring him. When such cases are not determined by natural laws, the country to which the criminal belongs loses its right over him. By a culprit's evasion of punishment, social order does not suffer. Moreover, the voluntary state of exile, elected by the criminal, is, in itself, no small punishment, and it may be considered a sufficient remedy for the injury caused to the public tranquillity of his native land.

CHAPTER III.

DEFENCE OF INTERNATIONAL JUSTICE.

402. If a nation has a right, without fear of disturbance, to defend its own dominion and property, it is likewise evident that it must be allowed to maintain its right to demand of other nations full reparation for any wrong done to its rights and property. This reparation should, as far as possible, be made by way of restitution—*i.e.*, by the restoration of what was unlawfully taken away, and, also, by the punishment of those who permitted the privileges of the nation to be interfered with. The nation which offended, or to which the offending person belongs, cannot justly deny to the injured people their claim for reparation. The welfare and security of the public give to a nation a greater right to demand this, than to an individual, on account of its greater importance.

403. Utility of Diplomatic Ministers.—In general, nations have representatives of their supreme power stationed in other countries. It belongs to their office to see that justice is maintained, and that good relations are preserved between the country represented, and that in which the representative resides. The person holding this high commission may be described as an officer sent by

one ruling power to another, in order to guard the welfare of his own State. In a less restricted sense, by a diplomatist, we mean any kind of minister, or agent, sent by one country to another, who bears the title either of **Ambassador**, **Chargé d'Affaires**, **Plenipotentiary**, or **Envoy**. The credentials, or letters of credence, which such a person must bear, are presented by his sovereign to the supreme power of the government to which he is accredited; and with that power the ambassador has the privilege of personal communication. Diplomatists, in the performance of their duties, not only guard the interests of their country, but also represent the dignity and authority of their respective sovereigns. By virtue of international laws, they are exempt from the control of the municipal laws of the country in which they exercise their functions; and this exemption is extended to their entire following, or suite.

Although it is of the greatest utility to have such public officials, or ambassadors, in foreign countries, yet, it cannot be said that these countries are in justice bound to receive them. Justice ought to be practised by all, and every one has the right to exact it from another; but neither the individual, nor the nation, has a right to take part in the resolutions of others, in order to see that such resolutions contain nothing opposed to their own rights. Therefore, though it is an act of prudence to receive ambassadors from other nations, it cannot be said that justice demands such acceptance.

404. **Ambassadors Extraordinary** must in Justice be Received.—Ambassadors are of two kinds—viz., those who permanently hold position in the court to which they are accredited; and those who are sent on special occasions, and who are consequently designated **Ambassadors Extraordinary**. Though a nation is not in justice bound to receive the former, yet, it is obliged to acknowledge the latter, when sent to transact special business, or to claim reparation for some wrong, &c.

Every nation has the right and the duty to adopt this means of communication with other countries, in order to promote the greater good of society, and to defend the rights of its own citizens. The other nations may reply as they deem most expedient, but they cannot deny admission to these ambassadors, or treat them with disrespect; for, by so doing, they would offend justice, and offer a direct insult to the nation whose representatives they are.

405. Necessity for International Arbitrators or Mediators.—By the word arbitration, is generally meant the adjudication of affairs *in* controversy, referred to private persons duly appointed to decide upon them, either by effecting an agreement between the disputants, or by a suggestion, or an order of a court of law. The proceedings are generally phrased a submission to arbitration or reference. The question to be determined by an arbitrator may embrace all personal disputes and differences that might otherwise be made the subject of controversy in the courts of civil jurisdiction. Thus, the non-fulfilment of promises, charges of slander, differences respecting partnership, disputed transactions, the value of property, questions of tolls, tithes, &c., may all be referred to arbitration.

When international justice is not maintained, and cannot be restored by an ambassador, the offended nation must not have recourse to arms to obtain the reparation of its infringed rights, or to inflict punishment for the offence. Between two perfect societies, equal and independent, there cannot exist a common tribunal to which their disagreement may be referred, and from which they may obtain sentence. Neither nation can pronounce sentence, because the question is *in causa propriâ*. Hence arises the necessity of placing the matter of disagreement in the hands of a neighbouring nation, which may act as umpire, and adjudicate upon the rights of the offended nation. The intervention of

nations, to decide between disputing countries, is in accordance with the laws of charity and justice. Hence, before having recourse to physical power, it is the duty of the two contending nations to invoke the mediation of a third. Physical force is to be shunned and reprobated, so long as the reparation of an injustice can be effected by more humane and reasonable means.

406. **Is it just to wage War?**—When justice cannot be obtained by any other means, an offended nation may, without doubt, appeal to arms, as a last resource, to retrieve a loss sustained, and to punish the violators of the order established. The use of physical force against a nation, either for the defence of rights, or for the reparation of injuries, is styled **War**. The prevalence of wars is an indication either of the imperfection, or of the total want of international law.

If the sentiment of brotherhood were universally diffused, and if a system of international morality, together with an organization for its enforcement, were established and generally accepted, fresh wars would be unheard of. Although the full realization of this state of things may never be attained, it is, nevertheless, the ideal goal to which all real progress tends. But it by no means follows, in the present condition of the world, and while the feeling of international justice and benevolence is only in embryo, that peace at any price is to be preferred to war. When a community is in a state of anarchy, the individual man may take the law into his own hands, and defend his life and rights with violence, if necessary; and, consequently, nations in similar circumstances are justified in doing likewise.

Wars have various causes and objects. Sometimes they arise in consequence of disputes, either about territorial possessions, or material interests. At other times, they have reference to the establishment of specially important points either of civil, or religious liberty. In all cases, the aim of each contending party is to weaken and overthrow the opposing power.

It is to be regretted that man, endowed by God with reason to regulate force, should frequently find it right and necessary to use force in order to regulate reason. This is the miserable lot of poor humanity. If war is not in itself a crime, it is always the result of crime. Therefore, the only means of averting it is the same as that which is solely capable of preventing crime—viz., moral and religious education.

407. War is, at the same time, Offensive and Defensive.—This statement is self-evident, because, in war, one nation assaults, and the other defends. Hence, we style it offensive, on the part of the assailant; and defensive, on the part of the defendant. The word, offensive, does not here imply a real insult, or an unjust or unlawful attack. It simply refers to the nation that first adopts the use of force in the contention. As regards the right of using force, it may exist, or not exist, either alternately or simultaneously, both in reference to the offensive, and the defensive people; because, as one party may be right or wrong in appealing to force, so, the contrary party may be right or wrong in denying that which produces the motive of war.

408. Conditions necessary to render Offensive War Lawful.—In order that offensive war be just and lawful, the following conditions are necessary:—

First.—The injury, insult, or wrong, inflicted by the people against whom war is declared, must be true and real. Were it not so, it would be unlawful and opposed to reason to demand the reparation of a right never infringed, or to inflict punishment for an offence never committed.

Second.—Reparation must have been duly demanded, and, in spite of all other efforts to attain it, refused. Otherwise, recourse might be had to war, before there exists any knowledge of its necessity.

Third.—The injury caused to the public good and to order must be so grave as to merit reparation by war.

Every one knows how innumerable are the losses, and how immense the evils, caused by war. The nation attacked may have deserved to suffer them ; whereas, the country, whose rights have been infringed, may in no way have merited them. The conquered nation may be compelled to make good the loss of material interests ; but nothing can compensate for the blood of citizens. Yet, the conquerors may not even be the injured people ! How seriously, therefore, ought a nation to consider everything, before declaring war ; and how reluctant it should be to wield a scourge which may eventually be used with tenfold effect against its own people.

Fourth.—War should be declared only for social reasons—*i.e.*, in defence of the citizens' rights, and of the public good. It must not be the outcome of mere caprice, or of private interest, even though it be the private interest of the king himself. Were war to be declared from these motives, citizens would not, according to natural rights, be bound to support it.

Fifth.—The declaration of war must emanate from the supreme power, because to decree the proceedings of the whole social body for the public good pertains to that power.

Sixth.—War must be proclaimed against an adversary in some such form as this :—if, within a certain period of time, reparation be not made, physical force will be resorted to.

When any one of the above conditions is wanting, offensive war cannot be justly and lawfully proclaimed.

409. **Conditions required to justify Defensive War.**—In order that defensive war may be justly and lawfully undertaken, the following conditions are necessary.

First.—There must exist a just reason for refusing the demands of the hostile nation. Either their fulfilment must not be due, or it must be outside the order of possibility, or the demands must be too exorbitant.

Second.—The reasons of the refusal to make reparation

must be made known to the people who suppose themselves injured; and all means necessary to avert the war must be adopted.

Third.—The honour and interest of the nation must necessitate resistance by physical force, rather than a voluntary concession of the adversary's demands.

410. **War may be subjectively just on both sides.**—When war is undertaken under the above-mentioned conditions, it may be subjectively just on both sides. We say subjectively, because, materially or objectively, it can be just only on one side. In fact, if one of the contending parties has the right to exact what it demands, the other cannot, under the same circumstances, have the right to refuse it; because, in the same concrete and individual thing, there cannot exist two contrary rights.

Nevertheless, subjectively, or formally, it may be within the range of possibility that both belligerent parties prudently consider and believe that they are justified in waging war; and, thus, the war may be subjectively just on both sides. From this justice the duties of the contending nations derive their origin, as the reasons of such duties could not elsewhere be found, until at least the nation which is necessarily in error should recognize its position.

However, when once the guilty nation has discovered its error, and has conquered its innocent adversary, the dictates of reason demand that full restitution be made to the vanquished people. We are fully aware that this is never done. Still, as philosophers, we speak not of the justice of men, but of the justice of things; and the justice of things demands that a nation, as well as an individual, should restore to others their plundered possessions. The axiom, **Give unto every one his own**, is not applicable to individuals only, but also to nations.

411. **Duties of Soldiers when the War is Unjust.**—When war has been declared and entered upon, if one of the two belligerent nations recognizes that it has acted wrongfully, it is bound to lay down its arms, unless the

contrary be justified by an inequitable or exorbitant demand for reparation. This duty of terminating the war by a just compensation devolves especially upon the supreme power, or upon the person directing the war. But, considering the fact in itself, we might say that every one, to whichever nation he may belong, must refuse to take part in a war that is known to be thoroughly unjust. No one can render lawful that which is unlawful, and it is God's command that physical force must not be used either against an individual, or a nation, that is acting according to justly conceived rights.

Practically speaking, it very seldom happens that either private citizens, or soldiers, are competent to judge whether a war is just, or unjust. Hence, as they owe obedience to the supreme power, they are justified in taking an active part in a war which may be apparently unjust. Besides, a war unjustly declared or entered upon might cause disaster to their personalities and possessions. Hence, citizens and soldiers are placed under the necessity of defending themselves and other innocent people from the assaults of the enemy. They must perforce protect themselves from the injuries which they have not merited, and ward off the dangers that cannot be avoided, except by attributing, as an enemy does, all the responsibility and fatal consequences to the supreme power. Therefore, all citizens and soldiers who take an active part in an unjust war are blameless of bloodshed, because they act on the principle of obedience, in order to defend themselves and others, and to ward off greater calamities.

412. **Duty of Belligerents.**—When a war is subjectively just on both sides, or, at least, so considered, every one is justified in taking an active part in it, though he be not thereunto compelled. Still, in this case, there are many things to be considered in reference to the power directing the war, and commanding the soldiers.

Soldiers must bear in mind that, even in war, they are to be guided by principles of charity and justice.

They must effect nothing against the enemy beyond what is demanded by the end of the war, and, consequently, by the power directing it. It is their duty on their own account to protect everybody. They have no personal right to act otherwise. They must not have in view the personal injury of private soldiers, simply because they are enemies. Feelings of hatred and revenge would thereby be cherished. The enemy thinks he is right, and he therefore fulfils his duty. Soldiers should be killed, simply that the enemy may be defeated. They must not be killed through personal hatred, or from mere love of destruction.

Generals must forbid unnecessary incendiaryism, devastation, and pillage. The latter tends to the ruin of private individuals, and must never be allowed. It likewise tends to the demoralization of soldiers, rather than to their encouragement. Moreover, it engenders motives of incessant rancour and hatred between the belligerent parties.

The following points should also be observed by the contending nations :—

1. Those measures and means, which, in consequence of a special agreement, or by universal international laws, are rejected as unlawful, must not be adopted.

2. Strategy, or fictitious movements, made to deceive the enemy with regard to conditions, quantities, and objective forces, may be lawfully used. Fictitious promises, or lying words, directly to deceive the enemy, must never be resorted to. To break a promise, or to lie, would constitute treachery, and not strategy.

3. When a suspension of hostilities is sought by the enemy, it must be granted, unless it be prejudicial to the end of the war, or to the success of a battle engaged in.

4. The right of parley, which is a conference between antagonists, with regard to truth, peace, exchange of prisoners, &c., must be admitted according to stated conditions.

5. Neither excessive burdens, nor exactions impossible of fulfilment, must be imposed upon the vanquished. In short, both belligerent parties must contend according to the commonly accepted laws of war. The justice of these depends on the following general rule :—“ Effect nothing against an enemy that is not required by the end of war ; and inflict no punishment that exceeds the limits of justice.” Against the persons and possessions of others physical force may be used only for necessary defence, or merited punishment.

413. **Neutrality.**—Neither of the belligerent nations has a right to exact the assistance of a third. Neutral nations are those which, during the progress of a war, take no part in the contest, nor evince any particular friendship, or hostility, towards either of the contending parties. Such nations should, as a rule, conduct themselves with perfect impartiality, and do nothing that may be considered more favourable to one party than to the other.

On this account, neither of the belligerents must ever think of causing damage to neutral nations, on the ground of being refused assistance. Both enemies may take refuge on neutral territory. They must not, however, injure any property belonging to it, nor must they disregard either its public or private interests. They must, moreover, avoid all danger of fighting on neutral territory, for they might thereby drag its people into the contest. A war carried on between two hostile nations must never redound to the injury of any other nation. If the latter remains neutral, it acts within its own rights. Although to observe neutrality may be opposed to charity, it can never be opposed to justice, since the neutral nation had no part in causing the war. If, therefore, nations decide upon war, let them not expect others to take any part in it. It is an old saying that “ He who wills an evil must not find fault, if another leave him in possession of it ? ”

414. **Duties and Rights of the Conqueror.**—Victory, of itself, confers no right on the victor; because, among the many evils of war, there exists that of not making reparation for injured rights. Hence, if war is unjust on the part of the victor, he still remains in the wrong after the victory; and, if in the wrong, how can he be justified in exacting that to which he has no right? Can a robber, by killing the person robbed, justly retain the goods of his victim? If reason answers in the negative, it likewise prohibits any justification of similar proceedings on the part of a victorious, but unjust belligerent. The victor, like the robber, is forbidden to retain his usurped rights, and is bound to repair the evil wrought against his injured enemy.

On the other hand, if the conqueror either declared, or accepted war, under the idea that he was justified in so doing, he would, when victorious, be still under the same idea. And, as he therefore fought valorously, and by his valour conquered the foe, he would be at liberty to exercise all the rights accruing to him, not from the victory, but in consequence of the reason whereby he justly waged war. In this sense, the rights of the victor may be summed up as follows:—

First. The conqueror may exact from the conquered all the expenses incurred by the damages caused by the war.

Secondly. All war materials, taken from the captive soldiers of the enemy, or found in the fortresses, may be retained by the conqueror.

Thirdly. The conquered people may be compelled to disarm, so far, at least, as is necessary to prevent further hostilities.

Fourthly. In punishment of the wrong done by the enforced declaration of war, taxes may be justly imposed upon the vanquished. In the imposition of taxes, however, the maxims of benignity, rather than the laws of strict justice, or the dictates of oppression, ought to prevail.

415. **The Victor has no right to Kill or to Enslave the Conquered Nation.**—On the ground that the slaughter, or the enslavement of a vanquished people, might be an efficacious preventive of further evils, many philosophers of past ages defended what we now condemn. One man is not made for another. One individual has no right to dispose of another, merely to forward his own private interests; neither can a victor dispose of the conquered people for his own interest, by depriving them of life, liberty, and rights. Man can sacrifice, or be sacrificed, only for the maintenance of the order universally established, for the immunity of justice, the triumph of truth, and the acquisition of the eternal good, for which he was placed in this life, and for which he lives. A victor cannot justly establish any of these reasons for sacrificing the conquered people. *Ergo.*

A conqueror cannot reasonably maintain that the conquered ought to be sacrificed, in order that he may thereby protect his rights. Even though, before the war, the vanquished people were the aggressors, they cease to be so at its conclusion. Therefore, defence of rights is no longer needed. Neither can the victor sacrifice his fallen enemy, in order to inflict a just punishment for the wrong done. The vanquished fought for fatherland. They therefore fulfilled their duty, in the same way as the soldiers of the conqueror fulfilled theirs. And, even though the war was materially or objectively unjust, its injustice was imputable not to the citizens and soldiers, but to their supreme power. The people may, if necessary, be justly punished by the dissolution of that power, and by an enforced submission to the victor; but reason forbids either their slaughter, or enslavement. Besides, there would be found no tribunal, competent to judge and pass sentence on their guilt and injustice. The conqueror could not be the judge *in causâ propriâ*. Therefore, although, through the want of a competent tribunal, the belligerent parties engaged in war, to defend a right

claimed by both ; still, it could not be said that, through such deficiency, the conquered people, who before the war were not obliged to yield their rights, may be punished by the conqueror. Hence, under no plea of inflicting just punishment, has the victor any right to deprive the vanquished either of life, or liberty.

If, however, whilst engaged in combat, or in defending a fortress, the opposing forces fulfil not their promises, and thereby become traitors and assassins, their conqueror would be justified in slaughtering them. In this case, they would render themselves formally guilty, and, therefore, worthy of exemplary punishment. Beyond this, we absolutely deny that the victor has any right whatever either to slay the vanquished, or to reduce them to slavery ; because their motives in fighting were the same as those of their conquerors—viz., the interests and public good of their country.

CHAPTER IV.

THE DUTY OF INTERNATIONAL BENEVOLENCE.

^{416.} The reasons which demonstrate the duty of mutual help between men, as willed by God, likewise prove the existence of this duty between nations. Every country is bound to co-operate as far as possible in the perfection and welfare of other countries, by imparting to them its wise precepts, its prudent counsels, its scientific discoveries, and the superabundance of its moral and material riches.

It is natural for a nation to consider and provide in the first place for itself, and its own interests. It must, however, be desirous that every other nation may profit by what God has created for the universal good, in order that men may learn the truth, and find therein the path which leads to that happiness, whereunto all, without any discrimination, are directed. That this end may be attained,

let each one, according to his abilities and strength, render aid unto his neighbour,—family unto family, and nation unto nation; because all must, to their utmost, co-operate in inducing one another to proceed according to the Will of God. If this law of benevolence were fulfilled by all men, the reign of virtue and happiness would soon succeed to that of vice and misery.

417. Duty of Imparting Truth and Science to Nations.—The chief necessity of every man, and consequently of every nation, is truth. This is the vital moral good of man. Therefore, in order to fulfil God's Will, every nation ought, in the most efficient manner, to procure the diffusion of truth. Scientific discoveries, mechanical inventions, and all things that tend to the welfare of men, should be freely communicated between one country and another. To prevent the propagation of truth would be to deprive the people of the greatest of all goods; because, no matter how great every other good may be, it is always inferior to truth.

Nevertheless, no nation is obliged, by the law of charity, or of international justice, to communicate to other nations any discoveries that have been made relating to the means of social defence. These may be exclusively retained by a nation, not to the injury of others, but for the purpose of better defending its own interests, and those of its allies, from the action of tyranny. And again, no nation is bound to reveal such secret means of defence, &c., as, when known by another nation, might be used against their possessor, either by way of inflicting injury, or of resisting just demands.

418. Commercial Treaties.—As there ought to exist among nations a reciprocity of aid in the propagation of truth and science, so there should exist reciprocal international help in the distribution of various kinds of material substances; for, as truth and science nourish the mind, and tend to the perfection of man's soul, so material substances feed and nourish the body, and are

capable of promoting the physical perfection of man, and of maintaining human life. It is in accordance with reason, to restrict trade within certain limits, and to subject it to special laws; for, it is thus rendered more advantageous to the nation whose citizens are allowed to trade with other countries; and it is in accordance with order, that a nation should provide for itself before others, and that it should not communicate its advantages to others, if it were thereby to impair its own prosperous condition.

Within certain specified limits, therefore, nations are obliged to share their goods with those countries which do not possess them. This may be done either by way of gift, or of exchange, or by exaction of service. This reciprocal communication of goods is not only the fulfilment of the precept of mutual benevolence, but it also largely tends to the development of industry, the refinement of civility, the increase of amity, the progress of arts and sciences, and, in fine, to the general well-being and perfection of men. Hence, to deny to other countries such commercial relations would constitute an act of injustice on the part of the nation denying them. It would, moreover, be an act contrary to the laws of reciprocal international charity and benevolence, whereby men are commanded to aid and promote indiscriminately the interests and welfare of all their fellow men.

419. **Duty of International Mediation.**—Besides the obligation, common to all nations, of interchanging ideas and substances, in accordance with the precepts of justice and charity, there still remains another duty—viz., that of mediation. This denotes an intervention, or agency, established between two opposite parties with a view to their reconciliation. Hence arises the duty of all men, in proportion to their opportunities and influence, to settle the disputes of others, and to endeavour to establish between them relations of mutual benevolence.

It is sufficient to understand the meaning of that

terrible word, **War**, and to recognize its consequences, if we wish to understand perfectly whether the God of love and order wills this mediation for the establishment of peace and harmony between nations, or not. We are at once led to denounce the infamy of any people that would fan the flames of discord between others, instead of co-operating for their pacification. Woe to the nation, which, through the agency of false politics, mendacious journals, inflammatory pamphlets, &c., would dare to scatter among others the seeds of enmity and war. Such a nation may, indeed, escape the justice of men, but the justice of an angry God it can never elude.

420. **Duty of Enforcing International Mediation.**—This is a very delicate subject to be treated of by a philosopher, for fear of his trespassing on the domain of politics. It is our duty, nevertheless, to demonstrate the truth in accordance with the dictates of reason, and, therefore, we will, without any reluctance or hesitation, lay down the right principles regarding it.

There might be many good reasons why a nation should refuse to take any part in mediation. Indeed, these reasons might be so weighty as to forbid any intervention whatever. Among the chief, we may mention the following:—

First.—The difficulty of judging which of the two contending parties is in the right.

Second.—The danger lest interference might cause the war to assume vast proportions, and to embrace a wide extent of territory.

Third.—The great disasters that might accrue to the intervening nation, whose people are guiltless of the contentions of others.

It is by a close consideration of the above reasons that a nation may decide whether it is obliged to mediate or not; to the nation alone must this decision be left. We will only state, that its refusal to mediate, simply because

it disregards the woes of others, is a perfect contradiction of the law of charity given to men by God.

What we have said about intervention as a means of preventing a deserving country from being crushed by the invasion of another, may, to a greater extent, be said in the case of one part of a nation being oppressed by the despotism of another part. It is unjust of any country to render support only to the domineering party of another country, and to patronize and aid a government of which the people at large disapprove. It is unjust to further the interests and welfare of the affluent party only, and to leave the poorer under the influence and mastership of the more wealthy. It is unjust to impose laws tending to hold the weaker portion in check, and to keep it under subjection, without any prospect of either moral, or physical improvement. It is unjust to restrict laws, enacted for the furtherance of trade and commerce, in order that the more favoured party may suffer no detriment. To act thus would be to arrogate rights which are not rights, and to offend the independence and liberty of the people. Consequently, justice would thereby be outraged.

In this case, intervention must be directed to the liberation of the weaker and less affluent party from the slavery and oppression of the stronger and more wealthy; for the latter, possessing all the means of defence, overwhelms the former, without any regard to justice, or right. Mediation must be employed to restore good-will between both parties, and to secure for every one the free exercise of his rights as a citizen. Such intervention, while removing the wrongs of the weak, would not injuriously affect the rights of the strong. This is in accordance with the dictates of reason; and morality approves of, and teaches it. Policy alone is arrayed against it. But who does not know that policy and politics are the very essence of egotism? Were the doctrine which we are now inculcating universally adopted,

those tremendous and awful tragedies, which, alas! too often occur in our midst, would, in a great measure, be averted. Even whilst we are now writing, we are struck with horror at the record of a most atrocious double murder committed in our Sister Isle. Two eminent statesmen have fallen victims to the daggers of a band of ferocious assassins. The crime will fill even future generations with awe and dismay. Verily, the supreme power must deeply consider the gravity of discontent and ill-feeling, when taking root amidst a dissatisfied people. But, lest we transgress our limits, we will now dismiss this subject, and conclude by condemning in a supreme power any predilection entertained towards one party in the State, rather than towards another. Our condemnation is approved by order and reason.

421. **Effects of International Alliances.**—Human reason, as well as moral philosophy, which is essentially religious, and which judges of things in the light of God's will, and not in that of personal interests, not only recognizes the utility and lawfulness of intervention in cases of oppression, but it advises and commands reciprocal union by means of alliances, for the preservation of respective rights, and for common and mutual defence. By an alliance, we mean a union of States, or nations, effected by a compact, treaty, or league. Alliance, or confederation, is of a threefold character.

1. It is said to be defensive, if mutual help is promised, in case of any of the allied parties being obliged to maintain a war of defence.

2. It is said to be offensive, if such aid is promised, in case of war being declared by any of the allies.

3. It is offensive and defensive, when, in both of the above-mentioned cases, reciprocal aid is promised.

The formation of these alliances is a work of international benevolence. When once contracted, they must, in justice, be rigorously maintained, according to the sense in which they were made. Such alliances do no

injury to the charity and justice due to others. Their aim is not the violation of the rights of others, nor the exclusion of benevolence towards them. They secure between two or more nations the promise of mutual aid, for the preservation of all, collectively and individually. Alliances are not made to produce evil. If this were the case, they could impose no obligation whatever on the parties allied. It would be one crime to contract such alliances, and another to maintain them.

When contracted for the public good, and for the maintenance of justice, alliances are good, between whomsoever they are formed. The more they are propagated, the more beneficial do they become. They are a powerful source of strength for the preservation of order, and before them many jealous and proud nations restrain their unjust desires, and modify their ambitious aims. If the formation of international alliances were more extensively adopted, the many bloody wars, which insufficient motives frequently enkindle, would not be witnessed. If all the people of the earth were united together in the bond of a universal alliance, peace and security would everywhere hold sway. In that case, no nation would aim at destroying the rights of others, because all nations would thereupon array themselves against the aggressor. Concord would then reign supreme ; and greater industry in the achievement of the good witnessed in others would be exercised. There is but one means absolutely necessary for the formation of a universal alliance—viz., unity of doctrine and religion. As all men tend to the acquisition of one object, which is happiness ; so there is only one means whereby they may become happy. But neither will the one object be gained, nor the one means be employed, so long as citizens and nations will neither understand nor fulfil their respective obligations to society, as well as their duties towards the Eternal Being.

BOOK IV.



INDIVIDUAL DUTIES.

PROLEGOMENA.

422. Only intelligent human beings are the subjects of duties. The duties which a person may have, whether personal, or common to others, are all his. Each man is an individual, or rather a principle of action, physically independent of every other being, a free agent before God, and responsible to Him for his actions, and not for the actions of others, unless they are common to him. Hence it follows, that all his duties are individual ones. Nevertheless, by individual duties, we here mean all those obligations to which man is subject, in quality of his being a man, or an individual of the human genus, and in consequence of the relations he has on account of his human nature. Such duties as these might also be called human duties ; but, in order to avoid any possible equivocation, we will call them individual duties.

Man owes all his duties to God, Whose nature and will form the basis of all obligations. Hence, when we speak of some duties owing to God, of some to our fellow-creatures, and of others to ourselves, we do not mean that, by the first, we are under obligation to God ; by the second, to our fellow-creatures ; and, by the third, to ourselves ; but we mean that, while every duty is founded on the nature and will of God, some duties are discharged with immediate reference to Him, some with reference to our fellow-creatures, and others, with reference to ourselves, as rational and responsible beings, charged with the conservation and improvement of our own nature. All kinds of duties are from God, Who alone, on account of His being our absolute Master, holds entire command and supreme dominion.

Nevertheless, man, as a simple man, may find himself naturally bound to fulfil certain obligations towards himself, and these we call, Individual Duties. He may, moreover, find that he ought to perform some actions in reference to his fellow-men ; and these are named, Special Duties towards his Neighbour. And again, he may see that he must accomplish some things having direct reference to God ; and these we call, The Theistic Duties of Man.

CHAPTER I.

DUTIES OF MAN TOWARDS HIMSELF.

423. The duties of man towards himself are those which are fulfilled by actions, having for their immediate object the man who must perform them. They are those things which man is commanded to do in reference to himself. We call them the duties of man towards himself, in this sense—viz., that man is the object of the actions commanded by God ; not as though man were to oblige himself to perform the actions, nor as though such duties should emanate from himself.

All the duties of man towards himself may be comprehended under the two great heads of self-preservation and self-culture, and may be included in these two precepts :—“Man, preserve thyself,” and “Man, perfect thyself.”

The fulfilment of these duties is within the range of possibility ; for man, being dependent on God, cannot be the absolute master of himself ; and He Who made him had a perfect right to command him to perform, in reference to himself, whatever might be most convenient to the end of his creation. When man believes in a Supreme Creator, the vaunted autonomy of man, or the right to do as he likes, is an error and an absurdity.

§ I. The Duty of Self-preservation.

424. The fact that God has created man and that He preserves him, proves that it is His Will that man should exist. But man, in reference to himself, must will that which God wills. Therefore, it is manifest that man is bound to preserve himself in order to live.

Moreover, man, by doing things opposed to the end of his existence, would dispose of himself contrary to God's Will. He would exercise over himself a mastership which he does not possess. This would include the idea of the usurpation of a dominion, belonging not to himself, but to God. But God cannot allow any created being to usurp a dominion which He alone possesses over all his creatures. Thus, again, God wills that man should preserve himself.

425. Extension of this Duty.—Considering the duty of self-preservation as a positive precept, we see that there is an obligation imposed upon man to nourish himself with healthy food. And, in order to nourish himself, he must do such an amount of work as is requisite to provide the necessaries of life. In plain words, he must do all that is prescribed with regard to diet, exercise, &c., in order to be healthy, and to obtain a long life. This obligation is of more or less weight, in proportion to the importance which things may have with reference to the end of self-preservation. This duty will always exist, so long as its fulfilment is within the order of possibility, and so long as it is reconcilable with the observance of other greater duties.

When considered negatively, this precept forbids a man to put an end to his own life. Consequently, all those actions, which either directly or indirectly cause death, are to be shunned, because forbidden. Let it be remembered that the gravity of these obligations is relative to the gravity of the injury which such actions may cause to one's life.

In reference to this point, we may also mention, that self-mutilation, even for the acquirement of spiritual good, must not be inflicted; because it cannot be supported by true reason. We need adduce no proof in condemnation of suicide. Whoever is gifted with any intellectual power at all must at once see that it is an act against Nature, and that it is also anti-social. It is against Nature because it is contrary to one of our strongest natural desires—namely, that of self-preservation—and because it constitutes a breach of one of Nature's first laws. It is anti-social, because it is contrary to the end of life, and opposed to the conditions under which life is given—viz., our self-perfection, and the perfection of others—our own utility, and the utility of society.

As man is bound to refrain from all acts of self-mutilation, and from any attempts against his own life, it follows that he ought to resist all violence directed by others against his own person. According to the law of Nature, he has a right to defend himself against all such violence, and especially when it is unjustly aggressive. In protecting himself against bodily injury, he is justified in injuring the aggressor, if the harm to himself cannot be otherwise averted. Nay more, he may, when necessary, take away the life of the aggressor, for, by so doing, he would only be exercising his right of self-preservation. We do not agree with those moralists who are of opinion that, in such contingencies, it is better to flee from the aggressor, even at one's own personal risk, than to inflict upon him any bodily harm. Whether is an unjust aggressor, or the object of his assault, the more useful member of society? If the latter, why should he, with danger to himself, flee from the former, and leave him uninjured? We, as philosophers, compassionate the person assaulted, and allow him to exercise his rights. Nevertheless, as the circumstances under which bodily violence may be either offered, or repelled, are so numerous and various, that, in the progress of human society, they

rapidly come under the cognizance of civil laws, one should, if possible, have recourse to those laws.

We pass over the duties referring to the promotion of health by exercise, cleanliness, costume, &c., as well as the duty of providing sufficient means for a comfortable existence by industry, economy, frugality, &c., because, in a philosophical work of this nature, we treat of subjects of higher importance.

§ 2. The Duty of Self-culture.

426. Man was not created by God simply to eat and drink, or to live a merely vegetative life. He was created to live a human life. Hence, in order that he may fulfil what is demanded by his being and his life, it is not sufficient that he should nourish his body, and attend only to his physical development, and to corporal pleasures. He must also learn, love, and will. He must comprehend with reason, love honestly, and wish ordinarily. His nature, his actions, and his existence, lie in these obligations. Hence, to deprive the body of some comfort, or to subtract from the vegetative life, so as to add to the human life, is not against the order established. Nay, in many circumstances, thus to deny oneself becomes a duty.

God, Who does nothing uselessly, endowed man with intellect, whereby he might speedily advance in the knowledge of truth. He also gave him a will, whereby he might more and more perfectly conform himself to his rule, which is the acquisition of moral virtues, for the easier attainment of his final end. That is to say, God made man capable of attaining perfection. But a means adapted to the acquisition of the final end is self-perfection, which we must necessarily wish to obtain, desiring, at the same time, the corresponding means; one of which is self-culture. Therefore, not only during childhood, but to the close of life, man must educate himself. The field of knowledge is very extensive. Whatever is true

and good must be sought for. The intellect is to be enlightened and strengthened, and the affections must be purified and elevated. So, man must live not only a vegetative life, but also an intellectual life, proper to man.

427. Extension of this Duty.—Affirmatively or positively considered, the precept of self-culture bids all human beings (1) to do all that is necessary to obtain a knowledge of the existence of God, and of His commands; (2) to do all that is necessary to learn a science, a profession, or an art, whereby to provide for themselves the necessities of life, and not only to prevent themselves from becoming burdensome to others, but also to become useful to them; (3) to do all that is necessary and conducive to their self-government, which consists in the acquisition of virtue and the rejection of vice. These duties are capable of being indefinitely increased. That which refers to the knowledge of God is without limit; because, in fulfilling it, man raises himself towards God, Who is infinite.

The precept of self-culture, negatively considered, bids us (1) to abstain from debauchery, from the immoderate use of pleasures and amusements, and from all acts of intemperance that may impede the development of the intellect; (2) to refrain from all curious, nonsensical, futile, and useless actions and occupations that may interfere with our necessary duties; (3) to shun the acquaintance of persons who may injure our morals, and to reject such literature as may be pernicious to our moral culture, by the insidious infusion of error, vice, and turpitude, into our minds.

We shall say no more on this subject, as, in the theoretical part of this work, we have already laid down many principles concerning it, which the reader should endeavour to remember, in order to make a due and proper application of them to himself.

428. Our fame is our own, and it is our duty to defend it.—Besides the duties of self-preservation and

self-culture, it is the duty of man to make for himself a good name, and, having made it, he has a right to possess and defend it. We here speak of the fame acquired by the diligent discharge of all one's duties. This fame, or public esteem, is the consequence of a good and honest life. It is a moral property belonging to the person who has merited it. Therefore, he has a right to possess it; and it is his duty to preserve it, because it tends to render him steadfast in the performance of good. Moreover, it captivates the confidence and friendship of others; it causes its possessor to gain access to the society of honest people; and, consequently, it is largely conducive to the fulfilment of the duties of self-preservation and self-culture: and, since this is the case, it must be protected against the evil designs of any aggressor. Fame, as a moral good, is superior to all material goods; and, therefore, it must be maintained by its possessor, even at the loss of his own temporal goods, or of those of others, although, *per se*, there is no such obligation.

429. Is it Lawful to Fight a Duel?—By a duel, is meant a combat, for the most part premeditated, between any two persons, for the purpose of deciding some private difference, or for the reparation of some supposed wrong. The time and place of the combat are indicated in the challenge, cartel, or defiance, sent by one party to the other. It generally takes place in the presence of witnesses, who are called seconds. These regulate the mode of fighting, place the weapons in the hands of the combatants, and enforce compliance with the rules laid down. A duel may be fought either *ad mortem*—*i.e.*, until one of the two contending parties is killed; or *ad sanguinem*—*i.e.*, until one of them is wounded. It is usually fought either with swords, or pistols; and, sometimes, the defeated party, in accordance with the arrangements, administers to himself sufficient poison to destroy his own life.

Whatever be the reasons adduced in justification of

duelling, we shall prove it to be unnatural, wicked, and criminal. As this species of combat tends either to wound, or to kill an adversary, it is undoubtedly prohibited by the precept which forbids the infliction of bodily injury on another; and it is also prohibited by the precept of self-preservation. Hence, it cannot be justified either by the existence of a contracted opinion, by the settlement of a difference, or by the recovery of a lost reputation, at the sacrifice of life.

Duelling is condemned by reason; first, because there are better means than this of repairing one's honour or reputation; and, secondly, because a duel is not of itself calculated to determine on which side stands justice; for the innocent person may himself become the victim. The only points that a duel can decide are the bodily strength and skill of the duellists; it can never prove either innocence, or guilt.

But, although we hold duelling to be wrong and criminal, yet, we would not hazard an opinion in the case of a person being unjustly robbed of his fame by another, who, on no account, would make reparation, whilst, at the same time, there existed no possibility of obtaining any redress by the law of the land. Every one has a right to his good fame, and, if a duel were the only means left of recovering it, then, in itself, that species of combat would still be against Nature. But, leaving aside this theoretic question, let it be remembered that every civilized nation possesses some positive laws regarding duels which, if just, must be obeyed; and, when these laws condemn duelling, no theory, however strong in its arguments, can justify or sanction what we have proved to be unnatural.

430. Is it lawful for a man, justly condemned to death, to destroy his own life with the permission of the judge?—Some philosophers answer this question in the affirmative, and others in the negative. We hold the opinion of the former to be true. The judge has

the power not only to pronounce sentence of death, but also to appoint a person to execute the sentence ; and there is nothing against reason in allowing the condemned man to perform on himself the function of the executioner. To society, the death of the criminal is a moral good. Why, therefore, could he not inflict it upon himself, if permitted to do so ? In this case, suicide could have no objective morality different from that of homicide ; and, if homicide be sometimes justifiable, why not suicide ? The effect produced by the death of the condemned man will always remain the same. What constitutes the lawfulness of his death, is the reason of his punishment by death.

Nevertheless, it would not, without the consent of the judge, be lawful for a criminal, sentenced to death, to destroy himself ; because, in this case, the infliction of death upon himself would not have in it the cause or reason of punishment, since the criminal would be acting of his own accord. Moreover, even supposing that a judge were to order a criminal to destroy himself, the latter would not be bound to obey the order, because human power cannot be thus far extended.

No person who is guilty of murder, but whose crime is unknown, can pronounce upon himself sentence of death, even though he were the highest judge in the land ; because no one is constituted by God to be his own judge, nor does any one possess the authority to condemn himself to death. In this case, the reason of legal punishment would be wanting ; because the death thus inflicted would not retain the nature of punishment, whose existence is always required, in order to justify the sentence of a judge ; and the sentence cannot be pronounced, until the real guilt of an accused person has been under juridical investigation. Therefore, no one can sentence himself to death.

CHAPTER II.

THE DUTIES OF MAN TOWARDS OTHERS.

431. All the obligations that cause man either to do, or to omit an act in reference to his fellow-man, are styled his duties towards others. These duties, in their objective nature, consist of such actions as each one is obliged to perform in reference to all men, individually, in accordance with God's command. The object of these duties is all mankind. In this respect, the difference between social and individual duties is, that the former include such obligations as a citizen is bound to fulfil with respect to the order of society ; whereas, the latter include those duties which are incumbent on each man, in reference to all other men in their individuality. Under the second head, we shall see what each individual is obliged either to do, or to omit, in reference to all other individuals ; for this reason, that they are his equals, having the same entity and nature as himself, and being placed in the same order of things, with regard to the final end.

432. **All Men are juridically equal.**—The natural or juridical equality of man is established in the fact, that no man is the property of another, and that no one is made for another. And, as this natural equality is the foundation of all reciprocal duties and rights, we gather therefrom the demonstrative reason of the duties of one man towards another, and the title of the natural rights which everybody possesses.

By the equality of which we speak, we do not mean an equality of individual quality or quantity ; neither do we mean that each man's state or condition should

be the same; nor that all should carry on the same trade or profession, or possess the same mental or physical strength. On account of the various dispositions of men, there can be no equality amongst them, either with regard to their pursuits or their natural endowments. We speak, therefore, of that juridical or moral equality, which consists in the parity of degree in which God has placed all men, in reference to their common end. God created everything for the same end, but He did not immediately direct all things to the end for which He created them. Some things He made for others; the whole visible world He made for man; and man He created immediately for Himself, having endowed him with intellect, which is a necessary means for the attainment of the final end.

In His disposition of one thing created for another, He established the final gradation of things;—the subordination of one to another,—the harmony of creation. Those things which are subordinate to others are of an inferior order. This inferiority is greater or less, in proportion as the order in which they are placed is more or less inferior to the order which immediately serves their final end, which is man. Man is not subordinate to any of the created beings; but to him all created things are subservient. But if man, on account of his nature, is said to be immediately subservient to the final end of creation, it follows that all human beings, without exception, should serve unto the same end. For, if this were to be the privilege of one, because he is clever; of another, because he is comely; and of another, because he is strong; it would be inconsistent to say that all men have the same nature. Therefore, as all, without exception, are immediately subservient to the final end, they are all equal in their nature, and of juridical equality.

This statement is also proved by the fact that each man exists independently of every one else; and, if he is

independent of others, he must exist for himself, and not for others. No man, whatever be his power or strength, can claim superiority over another, so as to make use of him for his own purposes. Such right or title cannot be had from Nature, because all men are created for God alone. Nature does not recognize any superiority of one man over another. She sees perfect equality in all, because all possess the same natural condition. In fact, superiority or mastership, right or authority over others, must be either absolute and incommunicable, or relative and derivable only by participation from the one who absolutely possesses it. But man has it neither absolutely in *se*, nor by way of participation. Therefore, men must be all equals. Indeed, man does not absolutely possess it, because only the creator of another can be said to have an absolute right over his production. But no man can say that he is the author or creator of another man; consequently, he has over him no absolute mastership. It is in the power of God alone to create man; because no man can create that which he himself has received. Not even generation can be called creation; for it is not man, but Nature, that produces one human being from another; and it is God Who has imparted to the nature of man the power, or the vegetative force of generation, and Who directs it to the end. Though we may admit that man can be the author of some of his free actions, as, for instance, the production of a statue; yet, it cannot be said that he is the creator of his child. Is the husbandman the author of the fruits produced in his own field? Certainly not. Because, although he sowed the seed, or planted the tree, he only complied with an indispensable condition, without which the fruits could not be obtained. Nature herself, independently of the work and will of man, yields the fruit; man being only a condition, *sine qua non*. The same may be said of the procreation, or generation of man. The author of a human being is always God, to Whom are to be

attributed all the effects of the necessary causes ; and, consequently, all the productions of Nature. No man, therefore, can boast of being the absolute author of his offspring, or claim the right of absolute authority over it by Nature.

Moreover, man has over others no participated, but only partial masterships ; because God, Who alone is our absolute Master, did not communicate them, by way of Nature, to any one. Man's nature, which in all individuals is specifically identical, affords no foundation for presuming this mastership. Even the different capacity, which God bestowed on all human beings for immediately serving the final end of creation, most clearly manifests that He created all men directly for Himself ; and, if directly for Himself, He could not have created them for the convenience of another to attain a similar end.

And now, having proved that man has neither absolute, nor participated mastership or right over others, we may safely conclude that all men are, by nature, juridically equal ; and that, if equal, no one is subordinate to another,—no one is above another,—and no one has the right to make use of another for his own utility or convenience. On the other hand, all being equal, they must all likewise serve God, advance in the knowledge of Him, revere Him as their Creator and Father, and look upon Him as the final end of their existence.

433. Perfect and Imperfect individual duties.—The first corollary to be drawn from the principle that all men are equals, is the distinction of the duties of man towards man. Independence of existence and of action, together with identity of the end, is what causes all men to be equal. These two different things are, as it were, two different titles whereby every man is bound either to do, or to omit that which bears reference to his fellow-man. Hence, individual duties are divided into perfect and imperfect.

The perfect are those which refer to positive and

determined objects, and which show the precise limits of what we are to do, or to omit, in reference to others ; and they may be styled, duties of justice. The imperfect are such as refer to things which, in themselves, are not so determined or circumscribed as the perfect ; and they are commonly called duties of charity. The perfect may be comprehended in this precept :—Offend nobody ; and the imperfect in this :—Do good unto all. We will first treat of the imperfect individual duties.

CHAPTER III.

IMPERFECT DUTIES, OR DUTIES OF CHARITY.

434. All that man owes to his neighbour by the laws of charity may be comprised under these two heads : (a) Love thy neighbour ; (b) Do good to him. Both these precepts derive their origin from the general principle,—Observe the order.

We must love our neighbours as ourselves.—We here speak of appreciative, and not of affectionate love. In this sense, we must, with the love of benevolence, love our neighbours as ourselves. God, Who created everything for an end, created man also for one only end ; and He made all men equals, and placed them in the same immediate order in reference to Himself, that they might therein love Him and serve Him. God loves His creatures with an equal love. But that which God loves and wills must be loved and willed by all men ; because every one is obliged to conform his own will to that of his Divine Master and Creator. Therefore, every one must wish, in reference to others, what he wishes in reference to himself ; namely, that they may attain the end for which all men are created, and that they may perfect themselves, so as to gain as much happiness as

they are capable of enjoying. To wish these things, is to love our neighbours as ourselves, to esteem them as ourselves, to think of them as of ourselves, and to desire for all the same happiness as for ourselves. Therefore, it is a duty incumbent on every man to love his neighbour as himself.

435. **The Duty of helping our neighbour.**—The law which bids us to do good unto others, and to assist them in their wants, is likewise dictated by the universal order which, in accordance with God's Will, is to be observed in the world. Nature itself and the common end of man most clearly demonstrate that it is God's Will that we and all others should tend to perfection, and to the attainment of the final end. This being so, every one must, as best he can, endeavour to effect that he himself and all others may attain that perfection, and that end; because, as every intelligent created being ought to see, God's Will should be accomplished in everything, and by everybody; and, to this effect, all available means should be employed. Man and all his possessions belong to God; and what belongs to God should be used for His service. Hence, in order that it may be thus used, it should be employed in such a way as may best ensure the attainment of the end of creation, or rather the fulfilment of God's Will. But the beneficence of which we speak consists in the employment of ourselves and our possessions for the achievement of the end of creation. Therefore, beneficence becomes an individual duty; for, as we have proved, it is commanded by God. The essence of reciprocal beneficence is comprehended in these sublime maxims:—(1) **Do unto others, as thou wouldst wish to be done by.** (2) **That which thou likest not others to do unto thee, do not unto them.**

436. **We must love all equally.**—Again, let it be observed that we do not speak of the love of affection, but of appreciative love. In this sense, true charity

must be equal towards all. Love, inasmuch as it is an affection, has its centre in the heart of man. It follows the rules which are independent of us, and by them it is modified. Hence, we do not say that we should love everybody with the same tendency of the heart, the same transports of affection, the same degree of attachment, &c. This would be impossible. A mother cannot feel the same love for other children as for her own. The mutual love of husband and wife could not be extended by them unto others. The charity of which we speak is a duty. That which it prescribes, being dictated by reason, must be elected by the will, whatever be the dispositions of the heart. It is a duty that should be fulfilled, because it is seen by the mind to be according to order, and not because it is felt by the heart to be according to its desires. Appreciative love is that which leads us to consider all human beings to be of the same value, in reference to the final end, as ourselves. It causes all to wish to go onwards to the attainment of the final end, without observing whether one goes quickly or another slowly;—whether one swerves to one side, or another to the other;—whether one moves in a direct line, or another in an oblique direction, &c. This kind of love does not presume that we should have the same esteem for a criminal, as for a just man; or that we should entertain the same regard for the unlearned, as for the learned, &c. This being well understood, we say that appreciative love should be equally entertained towards all, because the reason which dictates it is equal for all. God created men, without any distinction of state, for the same end; and He gave to all the same means of attaining that end. Therefore, the love of our neighbour, which, in its substance, is the desire that all should attain their end, because it is willed by God, ought to be equal for all, even for our enemies. Our enemies are our neighbours, because our neighbours are either those who have already achieved their final end, or those who are now in the way of

achieving it. But our enemies are in the position to attain it, as they have received to this effect the same means as ourselves. Hence, as we are commanded to love equally all those who are tending to the same end, so we must love our enemies, because God wills that they be loved.

437. It is not impossible to love our enemies.—Love for our enemies does not prevent us from seeking reparation for their evil deeds, nor does it forbid us to punish them; all this is found to exist in the order of things. We are not obliged to love them with the love of affection, since we are not bound to extend this love even to such as are not our enemies.

Love for our enemies implies the absence of any hatred that might, in consequence of their evil deeds, arise within us. It increases in us the desire that they should attain their final end, as willed by God; and it prompts us to assist them in attaining it. Now, to act thus is not impossible. It is to act as a man ought to act; and, at the same time, we may remember that such action not unfrequently awakens in our enemies feelings of repentance, and even wins their love and esteem. Therefore, to love our enemies is a duty, and it stands within the order of possibility.

438. Division of beneficence.—There are two kinds of beneficence, one common, and the other special. The former is equal in all, on account of titles or reasons common to all. The latter is special, or particular, because given to individuals, owing to some special title or reason existing in them.

CHAPTER IV.

DUTIES OF COMMON BENEVOLENCE.

439. The natural equality of all men is that common reason which binds us to render reciprocal aid to one

another. According to the dictates of reason, this help should be extended equally to all ; but, practically, this is not done, as it depends on the measure of the means at each one's disposal for rendering help to another. It is a universal duty incumbent on man, because its reason is universal, but not because the fact of benevolence is universal. This is proportionate to the strength and capacity of each individual.

By the laws of common benevolence, we mean such as relate to works of mercy, spiritual and corporal. Corporal works of mercy are effected by the fulfilment of the precepts,—Help those who are in need : Console the suffering and oppressed. Spiritual works are such as are done in accordance with the precepts,—Instruct the ignorant : Punish the guilty. By the performance of corporal works of mercy, we minister to the bodily health of others, by providing for them nourishment, clothing, shelter, &c., and by consoling them in the afflictions and trials of life. Spiritual works of mercy are performed by helping others to attain more easily their final end, by increasing in them a knowledge of the truth, and by strengthening their will in the performance of good. Both may be comprised in the twofold duty of alms-giving and fraternal correction.

440. Duty of Alms-giving.—Every kind of assistance rendered to a poor suffering human being may be considered an alms. To harbour the harbourless, to feed the hungry, to give drink to the thirsty, &c.,—are all actions constituting, in essence, the bestowal of alms. But, generally speaking, by alms-giving we understand a gratuitous donation of some of our goods to needy persons who request it. If we were to bestow a bounty on a needy person without his request, the act would, in itself, be more meritorious ; for we should thereby prevent any feeling of repugnance that he might experience in making the request. This duty of alms-giving is demonstrated by the reason of our obligation to love our neighbours as ourselves.

We will now consider in what proportion, and in what manner, alms should be given. In the order of the distribution of them, the following rules and principles may be observed.

441. **Duty of Alms-giving, in proportion to one's position, and the necessities of the poor.**—Practically speaking, this duty is proportionate to the wealth of the donor, and the wants of the indigent. In considering how, when, and in what quantity, alms should be distributed, it is necessary to observe this proportion.

We may distinguish, as follows, the wealth which a person possesses :—(1) Some of it is necessary for life, because indispensable to the possessor for the purpose of living. (2) Some of it is necessary to the state or condition of the possessor ; because, without it, he could not maintain himself and family in that position in which they are placed. (3) Some of it is superfluous, both for life and condition ; because one may, without it, sustain life, and keep himself and family in the condition which belongs to them.

As regards the necessities of the indigent, we may make the three following distinctions. They may be either extreme, grave, or common. (1) Want is extreme, when the indigent would, without assistance, succumb to death. (2) It is grave, when the person in need would not die from its effects, but would undergo great sufferings. This gravity is to be measured according to the quality and condition of the person suffering. By one person the same need might be very greatly felt, whilst by another it would be only slightly experienced. Some poor ragged people may be happy in their rags, whilst a well-bred man, who has lost his fortune, could not endure to be seen in them. (3) Want is said to be common, when it does not involve great suffering by the privation of goods, but when its alleviation is necessary in order that one may live an honest and contented life.

Having established this threefold distinction of riches,

on the one hand, and of want, on the other, we may safely state that the law of common benevolence obliges us to relieve extreme poverty, even at the sacrifice of such possessions as are necessary to our state or position. It is clear that a person in extreme need is at liberty to make use of the goods belonging to others. The preservation of his life is of greater moment than another's enjoyment of material good. Consequently, it behoves the rich to render him aid even with the resources necessary for maintaining their condition ; and to give alms in proportion to the extreme want of the person in distress, even when this can only be done with grave disadvantage and inconvenience to themselves.

As regards the alleviation of common needs, there is no obligation to bestow alms even out of one's superfluous goods. Of these, however, one should give in such a measure as that, if all the rest were to give in the same measure, sufficient provision would be made for the poor.

442. **The Order to be kept in giving alms.**—When different persons have different needs at the same time, and when one is not able to succour them all, let true and sincere charity decide which of them is to be first aided. Generally speaking, the person who is in the greatest need should be at once assisted. When the wants are different, but equal, relief is usually divided ; or it may be given to the first applicant, or to the one who is deemed the most worthy. When different people need the same help, it is clear that provision must first be made for one's self, and then for the others. And, in reference to the latter, aid should be rendered first to relatives, according to the degrees of consanguinity ; secondly, to friends ; and, thirdly, to fellow-citizens rather than to strangers, provided that greater reasons do not otherwise direct.

443. **Duty of fraternal correction.**—Besides the duties relating to the relief of corporal wants, there are others which none the less demand the exercise of charity.

They relate to spiritual wants. When to these necessities we apply efficacious aid, the eternal ruin of many poor souls may be prevented, and countless temporal miseries may be averted. The help administered in cases of spiritual want is termed fraternal correction. By this we mean not only whatever is necessary to withdraw people from the path of iniquity, but also that which is needed to keep them in the way of virtue, and to prevent them from falling into vice. The fulfilment of this duty of fraternal correction constitutes a noble and precious virtue. It consists in the work, freely undertaken, of instructing, exhorting, reprimanding, and chastising such as are in need of spiritual aid, even though there be little or no hope of reaping the desired fruit. It is difficult to calculate the value of good and timely advice and correction. Men, engaged only in the study of matter, cannot conceive the sublimity of this philosophy; but the man who believes in a future and eternal life cannot but perceive that it inculcates the choicest acts of charity, and the greatest good that man is capable of performing. The disciple of this school of philosophy ever laments and deplores the indifference shown by some towards the wicked, their aversion to every kind of chastisement, their complacency at the sight of our inexperienced youth left without restraint, and under the control of the worst passions. Those who are guided by reason cannot but reject evil, and, were they to treat it with leniency, they would be guilty of a treasonable crime against reason and humanity. We, therefore, once more repeat that the greatest benefit that we can morally confer on the man who has deviated from the path of justice is, to give him good and timely advice, to reprimand him with prudence and charity, and to chastise him, when necessary, with moderation and firmness.

Few things are more difficult of accomplishment than the due administration of chastisement. Even one who is not poor, will willingly receive temporal or corporal

aid ; but he who stands most in need of reprimand or correction shrinks from it with dread and abhorrence ; and, ordinarily, those who most require it, are the most unwilling to receive it. Consequently, great prudence is necessary in order to reprimand or chastise with good effect ; and, without this good effect, it is better to omit the correction. If only evil results be likely to ensue from correction, prudence bids us refrain from it. Thus, before administering correction, one must have regard to the character and nature of the person to be corrected. Obstinatey must be encountered by command. Hot temper must be treated with kind and affectionate words. Tender feelings must be respected, and never injured by abuse. Correction rejects the idea of swearing, severe bodily chastisement, and injurious words. Benignity, mildness, affection, and firmness, must always be used, in preference to corporal castigation.

444. Love of one's Neighbour, as a Negative Precept.—Considered as a negative precept, the duty of loving our neighbour demands that we should abstain from such actions as may displease him, even though they be not contrary to the laws of justice. These actions may, to some extent, be opposed either to the corporal, or spiritual welfare of our neighbour, and hence they may afford displeasure. In order to fulfil our duty in this respect, we must observe the following precepts :—
(1) Be civil to all men. (2) Do not give Scandal.

445. (1) Be civil to all Men.—Civility is the disposition to live in society to the satisfaction of others. It is quite distinct from morality. The latter has for its object the life of men in reference to the acquisition of God ; whereas the former has for its object the common desire of men to make one another's society agreeable. In the order of things, morality ranks higher than civility, or etiquette ; and true etiquette ought to depend on morality ; for, without morality, politeness would prove injurious to society, by allowing to man the full

possession and exercise of egotism. Moreover, the etiquette of an immoral man often degenerates into licentiousness. History, and daily observation, bear testimony to this.

Morality, which is the supreme reason of acting, not only commands us to give unto others that which we have, and to exert ourselves for the welfare of our fellow-creatures, spiritually and temporally, but it also forbids us to do or say anything that may cause displeasure or disgust in others. This is the real duty of civility. It belongs rather to the nature of a negative precept, than to that of a positive one. Men, being commanded to love their neighbours, should never be wanting in courtesy and affability towards one another. Unless, indeed, they admit that animals are, in some respects, more sociable than men.

Common sense tells us what manner of speech or of action must be avoided in the presence of others. Our object, however, is not to treat of etiquette. It is sufficient for us to remark that, in the natural order, true reason manifests the obligation which rests upon man to be civil towards all. Civility may be exercised to a greater or less extent, according to the state or condition of our neighbours, and to the gravity of the occasion. Inasmuch as man is capable of being useful, he must make himself useful; but, even if he cannot be of service to any one, he must at least never allow himself to give displeasure to others, either by words, or actions.

446. (2) **Do not give Scandal.**—Since the good of eternity surpasses all temporal good, the love of our neighbour, rather than mere civility, forbids us to give him scandal. Scandal arises from any word or deed inciting others to evil, and, consequently, causing spiritual ruin. Its gravity is proportionate to the gravity of the evil caused by the bad example given. He who scandalizes others, being thereby the direct cause of the evil which they do, is himself guilty of that evil; for, when he is aware that

his own evil action will prompt others to do likewise, the evil done by them is directly willed by him ; and, hence, he partakes of the evil, and also becomes guilty of it.

Generally speaking, the man who gives scandal commits a double crime. He breaks not only the law which he deliberately induces others to violate, but likewise the law of charity ; for he injures his neighbour by causing him also to break the law. It is difficult to measure the grievousness of scandal. No one can comprehend the number of times the evil may be repeated. No one can fathom the depth of the whirlpool into which it may precipitate others. The condition of those who give scandal is full of abomination ; especially when they boast of their evil doings, and thereby allure innocent people to commit the same crimes as themselves.

447. Five species of Scandal.—(a) Scandal is Active, when it is the occasion of evil to others. (b) It is Passive, when it produces its effect in those who have been scandalized. (c) It is Direct, when one does or says anything in order to corrupt others, or to cause them to do forbidden things. (d) It is Indirect, when one foresees the evil, but does not wish it to be done. (e) It is Diabolical, when it is really intended to produce spiritual evil.

448. We are not bound, in order to avoid scandal, to suffer any great inconvenience.—Although the law of charity, which is just, and full of benignity, never on any account allows scandal to be directly given ; still it does not oblige us to undergo great inconvenience, in order that we may avoid giving scandal. No one is compelled by the law of charity to refrain from that which, in itself, is lawful and useful, even though some might derive therefrom a reason for doing evil. Let it be understood that, notwithstanding the great influence of human frailty, free-will on the part of the agent is necessary to constitute evil. Hence, he who is easily scandalized, is a cause unto himself of spiritual ruin,

since he could avert it. Let him, therefore, consider well before he allows himself to be scandalized; because no law, either human or divine, can oblige a person to omit a useful and lawful action with inconvenience, lest he may cause another to do an evil, which the latter might easily avoid.

But, though no one is in duty bound to leave such actions undone, still, in some cases, it might be virtuous to do so; especially when, either by the performance or omission of an action, a greater evil might be caused in others in the universal order, which a person must always respect, and to which he must, to a certain extent, sacrifice his will.

449. Is it lawful to advise another to commit a minor evil, lest he commit a greater?—Though, in the order of things, it is lawful to omit an action which is commanded, still, it cannot equally be said that, in order to prevent a greater evil, a person may perform a prohibited action. Neither is it lawful to advise a person to commit some evil, less in its malice than that which he is disposed to commit. The positive precept differs, in the manner of its command, from the negative. By omitting what is commanded, we break the former; and, by doing what is prohibited, we break the latter. This effectively perturbs order; and nobody, without God's permission, and unless the precept ceases to bind, can act against the order which He has established.

However, if both the less and the greater evils were of the same species, it would not be unlawful to advise the commission of the former, in preference to that of the latter. In this case, there would be no inducement offered to commit one evil, in order to avoid another; but the counsellor would be simply seeking to prevent a part of an evil: *e.g.*, if a person were determined to kill another, in order to possess himself of his victim's money, it would not be wrong to advise him only to rob, and not to kill him. But, if a man were determined to rob

Peter, it would not be lawful to induce him to rob John instead. In this case, though the crime and damage be less of the same species, yet the rights in question are distinct from one another. Moreover, we could not, for instance, induce a man to get drunk, or to commit some other evil, in order to prevent him from killing another; because these are evils of different species.

When a person finds himself in the awkward necessity of committing one of two evils, he must choose the less, and avoid the greater. But, when a person is disposed to commit one evil, he must not be advised to commit another, in order that he may be prevented from committing the one resolved upon.

If evil be considered in its object, our statement may seem to be unfounded. It would appear that, with regard to simple violations of law or order, unattended by any pernicious consequences either to others, or to the offender, it might be good to counsel the commission of a less evil, to avoid a greater. Yet, if we consider the formality of the resulting guilt, the case appears altogether different; for, if the delinquent be not fully determined to commit an evil, we might, by advising him to commit a less one, directly cause him to do a wrong which he never intended to do. Thus, by counselling him to commit the less evil, we should cause him to be guilty of both; for, since the internal act constitutes the crime, he would be guilty of the one which he intended and desired to commit: and he would, moreover, be guilty of the one he was advised to commit, because he commits it. In other words, he would formally commit both crimes. Therefore, in such a case, it is unlawful to counsel the commission of a less evil, in order to prevent a greater.

CHAPTER V.

DUTIES OF SPECIAL BENEVOLENCE.

450. All the duties of men towards one another, with the exception of those emanating from the law, belong to justice, as one of the four cardinal virtues. Nevertheless, there are some that relate in a greater extent to our neighbour; not because they are commanded by justice, but on account of some special title or relation of Nature, or of a fact which causes men to expect from others some special assistance. These obligations we style proximate duties of justice, in this sense, that, although our neighbours have not any real right to expect aid, yet, generally speaking, they do expect it, and we feel obliged to assist them.

These various duties of special benevolence are differently named, according to the difference of the titles which specify them. These may be reduced to four; viz., Piety, Observance, Friendship, and Gratitude.

451. I. Piety and its duties.—By Piety, we strictly mean that good interior disposition which children entertain towards their parents. It may be defined,—“A virtue which prompts us to do all according to reason, in reference to those, who, after God, are the principal authors of our existence, and the promoters of our education.” The love we bear to God, as the real Author of our existence, is religion, rather than piety. And again, the kindly feelings which we entertain towards our suffering neighbours, together with our desire to see their afflictions alleviated, belong not to piety, but to compassion, commiseration, sympathy, and mercy.

According to the above definition of piety, this virtue obliges children to respect, venerate, love, and obey their parents. If we are bound to esteem and love our neighbours, because they are our equals, it cannot be denied that, for greater reasons, we should esteem and

love our parents. After God, our parents were the cause, *sine qua non*, of our existence. Reason tells us, that to God, as our Creator, we owe all love, veneration, and obedience ; and the same reason teaches us that we must entertain similar affections towards those who, in the hands of God, were instrumental to our existence. This is the special reason which binds children to be pious, or dutiful and affectionate, towards their parents. Hence, those children who withhold from their parents the esteem, veneration, love, and obedience, due to them, become thereby guilty of a double crime, because they break two distinct laws which bind them to the fulfilment of their duty. This double obligation includes the rendering of aid to our parents above all others ; because, in reference to their own children, they hold a higher place than others, both on account of their paternity, and by reason of the troubles and cares endured by them in nourishing and educating us.

We might here speak of the duties of parents towards their children, as a consequence of the piety due towards their offspring ; but we have already dealt with these duties, when treating of domestic society. We will, however, add a few remarks proper to this subject.

452. The education of children belongs exclusively to their parents.—To remove a child from its parents, in order to educate it, is an appropriation to one's self of what belongs to another, and a usurpation of an office which, by right and duty, devolves upon another ; hence, it is a violation of justice. To rear up children, and to educate them, are functions pertaining to a father. God constitutes the father. But that which is constituted by God cannot be subverted, or overthrown. Therefore, no one but the father has the right to educate his children.

It may also be observed that, where there are various forms of religion in vogue, it is the duty of parents to be vigilant, and to see that the soundest religious educa-

tion be imparted to their children. Amongst the many forms of doctrine, that one must be adopted which is the safest, the best, and the holiest, and not that which is sometimes considered the most fashionable or respectable.

453. The right of educating children may be ceded by their parents unto others.—Those parents who are unable to educate their children may transfer to others their right in this respect. If another will undertake to fulfil all the obligations belonging to one's right and duty, no precept is broken by allowing him to do so. We can renounce our rights, whenever the corresponding duties remain thereby unviolated. In virtue of the father's renunciation of his right to educate his own child, all his parental rights and duties devolve absolutely upon the person who takes charge of the child.

454. He who knows that he cannot possibly bring up children well should abstain from matrimony.—With regard to the end for which man is placed in society, as it is better to have fewer men in it, than to have additional members in a state of perfect destitution, reason teaches us that those, who clearly perceive that they are unable to educate children, should not enter into matrimony; or, when married, that they should, if they lawfully and honestly can, abstain from the use of marriage. The reason is, that we must act charitably towards all, by doing good to them, and by helping them towards their final end. But destitute persons could not exercise this charity towards their children. Therefore, they should, if possible, abstain from matrimony.

455. Parents must not sell their children.—Parents, who are either unable or unwilling to bring up and educate their children, cannot be justified in selling them; nor can any one be justified in buying them. Man, not being created for the convenience or service of others, cannot be made an object of traffic or merchandise. The order established by God would be thereby violated, and

man, who is created for God, would be treated as a mere commodity, to be used for the service of men. Therefore, not even at a fabulous price can parents lawfully sell their children. Moreover, by selling their children, parents would be trading with what does not absolutely belong to them. Children, in regard to their own entity, belong only to themselves. In reference to all other human beings, they have an independent existence, and are equal to them. Hence, such transactions would be of no value. A child, though sold, would still be master of itself, and would have a full right to seek reparation from its parents for the injury caused to itself by their unjust and unlawful traffic.

456. II. Observance and its Duties.—By observance, we mean that interior respect, or good inward disposition, which prompts us to fulfil our duties towards our superiors; our superiors being those who, in consequence of their office, age, state, learning, prudence, &c., are able to benefit us, and to aid us in our necessities. In their capacity of superior resides the title whereby they claim our respect; because we owe them obedience, not only on account of the authority existing in them to guide and direct us, but also from a motive of gratitude for the positive good which they do us. Hence, in civil society, we must reverence and obey our judges and magistrates, respect our teachers, and esteem all those who are learned and powerful, and who are able to direct us towards the acquisition of greater moral or physical good. To all these we owe honour and submission. Their valuable lessons and injunctions we must receive with great docility. We must entertain for them active feelings of gratitude, and be prepared to aid them not only by words, but by deeds also, whenever our services may be to them useful and acceptable.

457. III. Friendship and its Laws.—Friendship consists in that special and reciprocal benevolence which, without any obligation, two or more persons profess

towards one another. Friendship differs thus from love. Love may exist only in one person; *i.e.* it may be non-reciprocal. Friendship, on the other hand, *must* be reciprocal. Love is entertained for an object, on account of the good which it affords to the lover; friendship, on account of the good existing in the object itself. Friendship is, in itself, that special interest which one takes in the happiness and welfare of some particular person, or persons. Under its influence, one is disposed to do good to another, without any consideration of the benefit which may thereby accrue to himself. Hence, we must not love our friend, simply for any good that he may do us; because a friend is to be objectively loved in himself, and as being good in himself; for the love of friendship is a gratuitous and not an onerous love.

We speak of true, sincere, and faithful friendship; not of that which is only apparent, or feigned. The latter could not bear the sacred name of friendship. The former, in its reality, is distinguished by pure and generous affection. It is a close and complete union of hearts, testified by an actual participation in another's joys and sorrows, by mutual and unreserved confidence, and by the most disinterested fulfilment of serviceable offices. With regard to views and sentiments, it so connects a man with his friend as to make them both one.

Friendship does not consist in common similarity, conformity, resemblance, inclinations, or propensities of taste. These things exist between fools and fools; between criminals and criminals. True friendship ought to be founded on the real advantages of mind, heart, and intellect;—on self-disinterestedness and impartiality. He who courts the friendship of another, in order to obtain for himself certain advantages, or because he hopes thereby to be able to execute some plan of ambition, is no real friend. Such a one profanes the venerable name under which he conceals his base and selfish schemes. The man who is truly friendly seeks first the welfare of

his friend, and feels happy either in conferring benefits upon him, or in suffering for him.

The value of true friendship is incalculable. It is more precious than silver or gold, than wealth or honours. In the possession of it, a man may be happy, even when destitute of everything else. Sensual love must yield to friendship. The former may soon be consumed and exhausted ; and when it is not based on the latter, or does not become transformed into it, disgust and aversion inevitably supervene. Only the joys of true friendship neither droop nor decay. Their fruition never deadens desire. If friendship is less lively and vehement than love, it is more pure and lasting. Its objects are capable of continued advancement, and of increasing perfection. The blossoms and flowers that ever adorn it, bloom not to day, to wither to-morrow. It incorporates frail materials of dust and corruption ; but it conjoins the souls or spirits of immortal beings, who are ever raising themselves above the regions of earth, and approaching nearer to the Father of Spirits. Love generally dies on this side of the grave ; friendship extends to the region beyond it, into the better world to come. Death only transplants it amid new scenes, where its delights will be more pure and perfect, and where it will reveal itself in still more noble and glorious exertions.

458. IV. **Gratitude and its Obligations.**—Gratitude, considered as a duty, is that virtue which prompts us to do good to those, who have already done good to us. It may also be called the memory of the heart, for to return love for love is a natural impulse of our hearts. To check this impulse, and to forget the benefits which prompted it, is the mark of a base and degenerate mind.

We owe gratitude to our benefactors, not only that we may receive from them further favours, but also that we may evince our appreciation and esteem. To this end, we should always regard with affection those who do us

good ; we should manifest to them our inward feelings of love and respect ; and, when we can render them any service, we should promptly and gladly do so, in return for the benefits which they have conferred upon us. Be it, nevertheless, remembered that we must never testify our gratitude by violating any prior obligation ; for by doing what is wrong, we break a positive precept. But a positive precept must never be broken. Ergo,—

In fine, let us bear in mind that there is no more hideous monster than ingratitude. It has been denounced in scathing terms by moralists, essayists, and poets.

CHAPTER VI.

DUTIES OF JUSTICE.

459. By Justice, we here signify the law and the duty whereby we are bound to respect the properties of others. In this sense, the old maxim, *Unicuique suum*, "Give to every man his own," comprehends the law of justice, and imposes the correlative duties. Hence, in order to prove the matter and the duties of justice, we have only to prove the existence of this law,—Give to every man his own. But, before proceeding to do so, let us understand what is meant by the physical and moral properties of man.

460. (a) Physical Properties of Man.—If we consider man in the physical order, we may safely assert that whatever constitutes his individuality, and proceeds from his entity, or is added to it without any opposition to the universal order, may be placed in the category of physical properties.

We say, "without any opposition to the universal order," because, though man, as an intelligent and free being, possesses the faculty of prefixing his ends, and of choosing means for their attainment, and though, by electing these means, he causes them to be his own, as the

prefixed ends are his own,—yet, when they are against the universal order, such things could not be done by man. Indeed, to admit the contrary would be the same as to change the natural disposition of things, *i.e.*, to alter the order itself, and to suspend the laws of Nature. But to change the order of things is an impossibility for man, who is a created being; therefore, no one can constitute as his own that which is not to be elected as a means to his ends, according to the order of Nature.

461. (b) **The Moral Property of Man.**—By the moral property of man, we understand the right which belongs to him of possessing and using whatever is physically his own. This right is not merely a simple negation of dependence. It is rather a moral faculty supported by the divine law, which imposes upon all, indiscriminately, the duty of leaving to others the undisturbed possession and use of whatever belongs to them.

462. **Matter and Effect of the Law of Justice.**—It is self-evident that the moral property, when it exists, has its existence in virtue of the law of justice imposed by God. It is an effect of this law, because it consists in the reciprocal rights and duties of men, which have no other origin than the Supreme and exacting Will of God.

The moral property, which exists in us in virtue of the natural law, follows the physical property; just as the moral order follows the physical universal order. And, in fact, the matter of the law of justice, which produces the moral property, resides in the physical property, which exists before the law itself, and which causes it, at the same time, to become moral or juridical property. Indeed, if the law of justice is the law which obliges us to respect the property of others, or the law whereby God exacts that we should leave to every man all that belongs to him, it follows that what we call *his*, or *our*, or everybody's property, must exist before the law itself; for, otherwise, the precept would command

that which does not exist,—a non-entity, or nothingness. Thus, the matter of the law of justice must consist in the physical property, which is before the law, and which must be respected by all.

463. Existence of the Law of Justice.—The existence of the law of justice, or of the Will of God commanding us to respect the property of others, and forbidding us to deprive them of it, or to interfere with them in their use of it, is easily proved to those who are still wise enough to believe in the existence of a Supreme Being, and in the order established by Him.

In very truth, to deprive one of his property, or to weaken his possession of it, or to impede him in the use of it, is, to a certain extent, the same as to dispose of the owner himself; for, after all, that which belongs to a man forms part of himself. But to subject another to ourselves, or to dispose of him to our liking, is to act in opposition to that law of natural equality among men, which is willed by God. Therefore, there must exist a law of justice commanding us to respect the possessions of others. Were no such law to exist, man would dispose contrary to the dispositions of God, and would usurp an authority which he derives, neither directly nor indirectly, from God. But God wills, and cannot but will, that man should not arrogate to himself any such authority, and that the natural equality of man should be respected. Therefore, the natural law is a fact; and one naturally connects with the physical property the moral property, or the right, before all others, of preserving what is one's own, and of disposing of it for one's own ends.

464. Importance of the Law of Justice.—It is in this right, which is bestowed by God, supported by His Will, and defended by the sanction of the natural law, that the property of man consists, when we thereby understand something more than the mere possession of a thing. In the religious belief that there is an Eternal

Being, Creator of all things, the moral property, although logically distinct from the physical, is so blended with it as to cause but one entity ; because the former springs from the latter, just as obligation emanates from command.

According to this belief, the physical order, which is the work of God and the manifestation of His will, is the natural code of His ordinances, from which arise those obligations or duties which constitute the moral order. Physical property, which is part of the universal order, or a section of the Divine natural code, is followed by that portion of duties and rights whereby the moral property is formed.

This latter, therefore, under the religious system, is associated in the minds of men with the property of fact, and supports it with the sanction on which the law of God is based. On the contrary, under an atheistic system, the law of justice, together with the moral property, vanishes from the minds of men. They can see in others only the physical property,—the retaining of a thing in virtue of a pure fact,—without any right or reason of absolute possession. In an atheistic system, communism would still be proved illegal. And, indeed, who is there who does not detect in such a system the subversion and total ruin of civil society, without mentioning that of the religious? Were such a system admitted, what security could exist for our possessions and our own personalities? Where could peace of mind and earthly happiness be found? Take away the divine law of justice with its train of correlative rights and duties, or the idea of moral property, and, behold, physical property will be in itself valueless. The only means of defending it would be physical force. But the physical force of one might be inferior to that of another, and, therefore, the possessions of the weak would be seized and borne away by the hand of the strong. Under a system of atheism, everything would have to be decided by force. Robbery, homicide, incendiaryism, and crimes

of every kind and species would find their justification in force. Property would belong to a man so long as he could retain it by a successful application of force against force. The justice of robbery would be measured by its utility, and by rightly calculating the force to be encountered in usurping another's property. Let the reader consider for himself the theory relating to rights acquired by accomplished facts, and let him cull out its beauties, if he can. It is a theory much in vogue now-a-days, and one which is being ever insidiously thrust upon the minds of the unwary by atheistic writers and publishers, who would, forsooth, in the full blaze of the enlightenment and civilization of this nineteenth century, attempt to justify robberies and iniquities of every description, so long as they themselves do not experience, to their cost, the practical outcome of their stupid and iniquitous theories.

465. The Law of Justice is both positive and negative.—Strictly speaking, this law is but negative, and produces only negative duties; because, in order to observe it, we need only abstain from injuring others, from tampering with their property, and from contravening the will of the possessor. Nevertheless, this negative precept may, *per accidens*, be positive, and may indirectly produce positive duties. This happens, only when justice is trampled on by an aggressor, or when, in virtue of a contract, one binds himself to serve another. In the former case, the aggressor is positively bound to make restitution or reparation; in the latter, it is the positive duty of the servant to be faithful to his master in all that relates to the contract.

466. Every one possesses an exclusive right of Justice.—The things over which every man has an exclusive right of justice, or which every one may call his own, are the following:—

(a) One's own individual person, and all its component parts taken separately; the body and each of

its members ; the soul and all its faculties ; life, health, &c.

(b) All that proceeds from one's own being ; e.g., fame, honour, virtue, knowledge of truth, &c.

(c) The free exercise of all our faculties, the free disposition of ourselves, our liberty, independence, &c.

(d) All that emanates from the free use of our own moral and physical faculties, e.g., our children, the fruits of our industry, the produce of our labour, &c.

(e) All that man can, by means of his work, superadd to his possessions ; all that accrues to him by way of gift, fortune, legacy, inheritance, &c. Under this head, we may likewise rank his consort, and the power or jurisdiction acquired by him in civil society, &c.

Such are the things which man may call his own. Over these he can exercise his exclusive right of justice, which, strictly speaking, causes property to be a fact and an entity.

467. Difference between property and dominion.—In order to prevent any misunderstanding, and to avoid the possibility of any doubt or equivocation with regard to what we shall hereafter demonstrate on the subject of justice, we will now draw attention to the difference existing between property and dominion.

By property, we mean whatever belongs to another, with the right of holding it, and of excluding all others from its use and possession. It consists in that division of natural things, whereby every man, in reference to others, is master of himself, and of all that belongs to him. As regards these things, he depends on God alone. No one can interfere with him in that which pertains to his personality, his works, or his possessions. On the other hand, he himself is forbidden to dispose of what physically belongs to others. Moral property, therefore, consists in this, viz., that the things we possess are ours, and that we may utilize them, not in virtue of an absolute right, but in virtue of only a limited right.

Were we permitted to exercise over them an absolute right, so as, without breaking the natural law, to be able either to dispose of them, or to destroy them, such property or possession would then assume the name of **Dominion**. This dominion may be greater or less, in proportion to the greater or less moral liberty granted us to dispose of our possessions. Hence, dominion is the moral liberty of disposing of our property.

Thus, I may hold possession of a thing without having dominion over it; because possession does not include dominion, though dominion always includes the idea of possession. For instance, my life, health, and personality, are my property; but I have no dominion over them, because their dominion belongs to God, and to God only. Hence, I could not destroy them. On the contrary, if I possess an ox, I hold full dominion over it. Consequently, I can either sell, lend, or even slaughter it; because, in this case, God granted me the liberty of disposing of it according to my own will and pleasure; and, therefore, by using this liberty I should neither offend God, nor injure man.

468. **Natural and acquired properties.**—Properties may, according to their origin, be divided into natural and acquired. Natural property is that which, without any effort or labour on the part of the possessor, becomes naturally his own.

Acquired property is such as is obtained in virtue of the work of the possessor, or which, though formerly belonging to another, is now held by him, either in virtue of a contract, or as the production of his physical and moral faculties. The goods which we have classified above as capable of being called one's own are all natural, with the exception of one's consort, one's authority in civil society, and one's adventitious goods. These properties are acquired, because granted.

469. **Further division of properties.**—In order the more fully to treat of this important matter, which is

the subject of the law of justice, and to demonstrate more clearly all the positive and negative duties relating thereunto, we will further divide this question into six chapters: (1) On natural properties. (2) On acquired properties. (3) On the manner in which property and dominion are acquired. (4) On the various species of contracts. (5) On the preservation of property. (6) On the positive duty of justice, restitution.

CHAPTER VII.

ON NATURAL PROPERTIES.

470. The first natural property belonging to man includes his own individuality, and everything that concurs in causing him to be what he is. His soul with all its faculties; his body with all its parts, even to a hair; his state, quality, and condition, be they essential, or non-essential to him; his life and health; his moral and physical perfections, &c.:—all these are comprised in man's natural property. But though man possesses them as his natural property, he holds no dominion over them. We prove it thus:—It is an evident fact that those things which exist within one are physically his own; for they cause him to be what he is, viz., a person numerically distinct from all other persons. But what is physically one's own must, on account of the equality of all men, be likewise morally one's own. God wills that each human being should be respected in his own order; but this Will of God constitutes the moral property; therefore, man has a moral property over his body and its component members. Our second statement, viz., that man holds no absolute dominion over his natural property, needs no proof. We have already shown that God reserves to Himself this dominion, and, consequently, we respect Him as our absolute Master.

Since man possesses over himself the above moral property, it is his positive duty to respect and perfect himself to the utmost possible degree; and there is also incumbent upon him the negative duty of doing no harm either to himself or others. Hence, he has no right either to mutilate or to kill either himself, or others; he must not wrongly use his moral faculties; he cannot injure his own position, or that of others; he is forbidden to strike another, to fight, &c. From all these actions he must refrain, in order to fulfil both his negative duties of justice towards others, and his positive duties towards himself.

471. **We have a right over our personality.**—From the positive and negative duties of justice springs the right of every man to be respected in his own personality; because every one is so far master of himself as to have a right to repel the violence of others, and to resist any attempt at interference in his own affairs. So long as a man's actions are conformable to the divine law, he is at liberty to act as he likes, in reference either to himself or others.

Nevertheless, man would not be allowed, in virtue of the right which he possesses over himself, to follow his own will and pleasure in reference to God; because God, as we have already said, granted to man His personality as a moral property only, and not that he might exercise dominion over it. God, whilst forbidding others to dispose of us, did not allow us the right of disposing of ourselves at our own pleasure, but in view of the end which we ought to attain; hence, it is our duty to preserve and perfect ourselves.

472. **Duty of man in reference to truth.**—The perfection most essential to man consists in the knowledge of truth. Truth is the proper food of the spirit. By truth, through the agency of reason, which is the most noble and the most characteristic faculty of man, the life of the intellect ought to be invigorated and maintained.

Although Truth, objectively taken, is not the exclusive property of anybody; yet, God commands us to attain and possess it, and to unite ourselves to it. Hence, it is the duty of every one to acquire it in its subject, which is knowledge and wisdom. It is, therefore, in reference to this faculty, subjectively taken, that justice bids us respect it in the possessor. Thus, as it is an act of charity to guide others to the knowledge of truth, so it is an act of injustice to prevent any one from attaining it, or to falsify the means for its acquisition.

473. **Falsehood is opposed to justice, and is, therefore, an evil.**—Falsehood is either a saying, or a deed, whereby we lead others into error. It prevents access to the truth, and therefore hinders its acquisition and possession. Hence, it infringes the right possessed by every man to be free and undisturbed in the use of his moral faculties for the acquisition and possession of truth. Hence, falsehood is forbidden by God, because, in its essence, it is contrary to the end for which God willed the existence of all things. God made us in order that He might manifest Himself unto us. He therefore created us that we might know the truth. How then can He approve of that which draws us away from the truth, and, consequently, from the end of our creation? To justify falsehood would involve contradiction on the part of God. But God cannot be subject to contradiction. Therefore, falsehood is in itself evil.

474. **Can we lawfully affirm that which is not, and deny that which is?**—In other words, is there any case in which we may, without being guilty of falsehood, affirm the opposite of what really exists? It is commonly admitted that, in some cases of great concern, and when prompted by good reasons, we may make use of equivocation. By this term we signify some expression or phrase susceptible of two interpretations. We may, however, adopt it, only when we intend using it in such a way that truth may be conveyed and found in it,

although we foresee that the party to whom it is directed will interpret it in a wrong sense. To make use of such expressions in cases of necessity is not evil; because one does not intend thereby to adopt deception, but he rather expects that the person addressed will deceive himself by interpreting the expressions in a sense contrary to that which he desires to learn. Let it be remembered, however, that in making use of equivocation, we must be circumspect and cautious, lest we form a habit of telling deliberate untruths, which could never be excused.

Laying aside the above question, we will resolve the following, which seems to be of greater importance. Could God permit any one to affirm as true that which is untrue, and *vice versâ*? In the first place, we must distinguish between a statement regarding necessary realities or substances, and one regarding contingent realities, or things of real fact. We may, without any hesitation, assert that God could never permit the former, because its subject would involve absolute truths, and universal reasons, which are as immutable as God Himself is; and therefore, He could not, in this case, allow any human being either to affirm as true that which is false, or as false that which is true.

Some philosophers say, when speaking of contingent realities, or hypothetical truths, or of things which exist and, which might also, in virtue of God's Will, not exist, that He could permit any one to affirm that which is not, and to deny that which is. And, indeed, as regards these things, God can produce them, and, if they already exist, He can destroy them; for He is Almighty, and all these things He can do, without any opposition to the end of creation, and without any contradiction or repugnance on His part; because all that God wills is willed for an end. Moreover, all contingent things, they say, though really existing, virtually do not exist, for God can, at any moment annihilate them. Again, on the other hand, all contingent things, though not really existing, do virtually

exist, for God can, in an instant, produce them out of nothing. Hence, it would not be contrary to the truth and wisdom of God, if, in some cases, He should, either of Himself, or through some human being, declare that a thing is, which is not, and that another thing is not, which is. However striking this theory may be, yet it could never be held; because, if a thing exists, the fact that it is in the power of God to destroy it, does not alter the truth of its existence, so long as it does exist; and, therefore, God could never sanction the absolute denial of its existence, and *vice versa*.

Considering this question in reference to man, we may at once see that, on his part, it would be unlawful and wrong to affirm what is not, and to deny what is; because, as regards man, that which exists is an absolute reality, and it could not be made non-existent, when it exists. The established order of things is a law unto men, and they must respect and observe it. If God has made every intelligent being capable of seeing that which is, no one has the right so to alter the language of Nature and the dispositions of men, as to cause them to admit as true that which is not, and *vice versa*. Hence, any one may easily comprehend how a simple, malicious lie is an intrinsic evil, and that it is, therefore, never lawful.

But, though man is always forbidden to tell even a simple lie, it does not follow that he is bound always to tell the truth. He is not so bound. When, by manifesting the truth, he might either himself suffer, or cause grave inconvenience to others, he may lawfully conceal it, if he be not thereby guilty of a lie. Whenever justice does not compel a man to make known the truth, he is not bound to reveal it, if he be sure that, by concealing it, he is free from falsehood. What right, forsooth, has any human being to know all that pertains to another, or to demand that he should lay before him the reality of a fact? And who could be reprimanded for an incorrect answer to an impertinent question?

Such an answer could injure neither the interrogator, nor the universal order. It could offend neither justice, nor charity. In conclusion, no obligation of the natural law binds a man to reveal the truth to all kinds of prying and inquisitive people. Therefore, not being commanded by God always to tell the truth, we may conceal it, provided we do not lie.

475. Three kinds of lies.—Falsehood is divided into three kinds, viz., malicious, officious, and jocose.

A lie is malicious when it is uttered in order to damage or prejudice others, either physically or morally. Such a lie may often constitute a very grave crime.

An officious lie, while causing no harm to others, is made use of to obtain either for one's self or for another some moral or physical advantage.

A jocose lie involves neither injury nor utility to anybody. It is used either in jest, or to conceal the truth from others. The malice either of an officious or of a jocose lie is generally very slight; but even a jocose lie is always wrong, if it be a lie.

476. Man has a right to his fame and honour.—The esteem in which one is held is the natural result of his perfections, actions, and merits. It is, therefore, naturally his own, as are the things which produced it. Hence, he has a right to it, and no one, without disturbing the order of things established, and violating the natural equality of men, can molest him in his possession of it.

Honour, when it does not signify fame, comprises every manifestation of the esteem and respect which a person may have merited. Since it is the will of God that everything existing should be willed by man, and respected by him in proportion to its value, it follows that it is also God's Will that every one should, in his own grade and position, be respected by his fellow-man. Respect, therefore, being thus demanded of every one, it becomes a duty incumbent on all to manifest it; it is

each one's right to expect it ; and it is a law of justice that it be maintained. Moreover, who does not know that truth, tranquillity, happiness, success, and innumerable other blessings, are closely allied to esteem and honour ? Hence, to filch from another his good name is to break the law of justice with regard to all his other possessions, for they likewise are thus indirectly injured.

477. **Calumny, Back-biting, and Contumely.**—From what has been said, it is easily seen that calumny, back-biting, and contumely are opposed to justice.

Calumny, properly speaking, consists in falsely or maliciously charging others with faults or defects which cannot rightly be attributed to them, or in imputing to them crimes, of which they are not guilty. By calumny, men are robbed of the esteem, fame, and honour due to them ; and, in consequence of such robbery, they likewise suffer the loss of many other moral properties. This vice, on account of its consisting of false assertions, contains within itself all the malice of falsehood. It is one of the vilest crimes that a human being, as a member of society, can be guilty of.

Though Back-biting is, in its malice, less grievous than calumny, it is, nevertheless, also opposed to justice. It consists in making known the real, but secret faults of others. Natural equality demands that each one should be allowed to possess what is his own. Although, therefore, a man may enjoy the esteem and respect of others without any real merit on his part, or notwithstanding some of his defects, yet justice claims that he be left in undisturbed possession of what he enjoys as his own, and that his secret defects be not proclaimed.

But if, by the concealment of another's defects, any harm would be likely to accrue either to other individuals, or to society, justice would not be offended by their publication. Truth is a common good which we may use, when necessary, either for our own or another's benefit. Hence, if, by the manifestation of the truth,

we could attain any good either for ourselves, or for others, justice would not, in certain cases, be thereby injured.

Truth is the patrimony of each individual. It might, therefore, appear to many that an unnecessary manifestation of the defects of others would be a breach of charity, and not of justice; because the culprit, having to a certain extent lost the right to his reputation, would no longer possess it in reality, but only virtually. We repudiate this theory, and repeat our statement. To possess one's reputation means to hold it as one's property, and nobody is permitted to prevent its owner from enjoying it; and any one who, without grave reason, publishes the secret defects or faults of another is guilty of a crime not only against charity, but against justice itself.

By contumely, we mean any injurious, contemptuous, or spiteful words, whether true or untrue, which are unjustly made use of in the very presence of the person attacked, be the alleged defect either physical or moral. Contumely is always a crime against justice, no matter whether the object of it be guilty or innocent of the allegations made against him. Every man, be he good or bad, rich or poor, learned or ignorant, is independent of his fellow-man. He is not made for the use and service of others. He is equal to all. This equality demands that he be respected, at least in a negative, if not in a positive sense. That is to say, he must be left undisturbed in the possession of his right of independence of man, and dependence on God, Who alone is his Master. If a person be full of defects, let him be permitted to ask, who is the man that, with head erect, can say, "In me there is no fault?" Such a man is not to be found. Every human being is subject to contingencies, and, as such, he is imperfect. God alone is perfect. Let every individual be allowed to think for himself; but, if we witness defects in others, let us endeavour to correct

them without any manifestation, either in word or deed, of derision, ridicule, contempt, or molestation ; otherwise, we should be guilty of a crime against justice.

478. **Man has a right to his liberty.**—Another natural property belonging to man is his liberty. This is true, not only if we consider him physically, in which sense the property of his liberty is on a par with the property of his personality ; but also if we consider him morally, or as having a right, in reference to all other men, to act as he chooses, and to be independent of all. Man's moral independence of others is as reasonable, as the fact that his moral independence of God is absurd ; because, if it is repugnant that the inferior should be above the superior, it is likewise repugnant that an equal should be either above or below his equal. But man, in his essence, is inferior to God, being a creature of God ; and, in his nature, he is equal to another, because created for the same end as another ; *ergo*, he must essentially depend on God, and be independent of man.

Let it be understood that, by the word, man, we do not here signify a father, a magistrate, or a king, but a human being as he is in the order of nature. In this sense, we hold, as an undeniable fact, that all men are equal ; and, if equal, independent ; and, if independent, that all possess a right to their liberty.

479. **Tyranny and Slavery.**—From man's natural independence, and from the right which he has to possess and to use his faculties, it follows that no one can forcibly interfere with the actions of others, or compel them to do according to his will. Every one, as regards his own actions, is free, so long as the rights of others are not thereby impugned.

To exhort a fellow-creature to abandon evil and do good, or to restrain him, even by force, from the perpetration of an evil deed in a moment of mental aberration, would not be an act against justice, but rather a work of charity. But to impose upon him my

own will, or to compel him to do as I like, when he is possessed of a sound mind, and when I am not his superior, would be to arrogate to myself a mastership which I have not; it would be a direct offence against his independence, and a robbery of that liberty which Nature gave him; and, by this contempt of his natural equality, the law of justice would be despised and trampled upon. It is in this violation of justice, in this assumption of authority over one's equal, in this imposition of one's will on another, without any due motive or right, that tyranny consists,—a monster whose deformity can be concealed under no veil of philanthropy. Men are created not to correct or embellish the order established, but to observe it.

By slavery, is signified that state of degradation, or of total dependence on others, to which a man is reduced by being deprived of his moral liberty, divested of every right, and compelled to serve another in all things, and to regard himself as another's property, subject to destruction. Slavery is the complete annihilation of the state of equality established by Nature. No philosophy, no reason, no argument, no excuse whatever can justify slavery; for it is a condition opposed to Nature itself, which on all sides exclaims, "Men, ye are all equals."

480. Man can alienate his liberty.—Man can divest himself of his liberty, by thoroughly subjecting himself to the will of another. In all that is not contrary to his dependence on God, and to the fulfilment of his primary duties, he is free thus to sacrifice his liberty. Only in those things in which he holds dominion over his liberty, and in which he is morally free, even as regards his duties to God, can man subject his will or his work to another, and declare himself his servant. He may submit himself to another; but no one, without a violation of justice, can force him, without any cause, and against his will, into a state of subjection.

481. Other natural properties of man.—There are several other properties which man by nature possesses ; such as his children, and the produce of his labour. Let it, however, be remembered that the property held by parents over their children is not in reference to the latter, but in reference to other men ; for no man is born for another, nor can any one dispose of a man, or make himself his master. Children naturally belong to their parents, and no one has any right to claim them, or to withdraw them from their progenitors ; and not even parents have any right over the personality of their offspring. For, no sooner are children able to govern themselves, than they may, without any violation of the law of justice, leave their parents, and live independently.

Whatever man produces by the work of his hands, or of his intellect, belongs absolutely to himself ; and he possesses full dominion over it, because the ideas of author and master are as inseparable as those of cause and effect.

CHAPTER VIII.

ON ACQUIRED PROPERTIES.

482. Acquired properties are those which belong to man, as being the result of his work. We reduce them all to three species, viz.,—(a) The consort. (b) Authority over others. (c) All the goods of fortune.

(a) Of the property, rights, and duties inherent in the consort, either as husband or wife, we have already treated in the chapter on conjugal society, to which the reader is now referred.

(b) In reference to authority over others, we have likewise already laid down important principles, when treating of civil society. We need not, therefore, repeat

what we have written on this subject in previous chapters. We will now only remark, that he who has acquired authority to command, or moral power to direct others, has, to a certain extent, acquired also the property of that authority, and the right to retain the exercise of it. As this dominion of jurisdiction is an entity belonging to him who has acquired it, he cannot justly be disturbed in his possession and administration thereof.

483. (c) **Goods of fortune, and how they are appropriated.**—By goods of fortune, we mean those exterior things which are subordinate to man, and which, in the order of Nature, appear to be assigned to him for his maintenance and well being. They are useful to man's life; they appease his natural wants, and render him happy in possessing them. They are physical goods, pleasing and useful; and they constitute the rank, riches, and fortune, of their possessor. God leaves these goods at the disposal, not *in esse*, but *in posse*, of all men. That is to say, man, by the exertion of his faculties, may appropriate such existing goods, and make them, in reality of fact, his own. That every human being can appropriate to himself these goods, is plainly evident; because God, the Creator and Master of all things, has decreed that they be left to the service and convenience of all men, without any distinction of personality.

When man, by the lawful use of his faculties, has once acquired any of these goods, they become his own; and, whether they be movable or immovable, no one can deprive him of them. This we can easily prove. God, Who gave to every man existence and the faculty of acting independently of all others, has also endowed each one with the physical and moral faculty of providing for himself out of all inferior created things the means necessary to live in plenty. No one can lawfully impede another in the exercise of that right and faculty; for he

would thereby act against the will of God, Who endows all men alike with the same right and faculty. But the means whereby one may live in happiness and plenty are to be found in those goods which we have called goods of fortune. Therefore, God has forbidden any one to prevent another from amply providing for himself out of those goods. That is to say, all men have a right to provide for themselves. Hence it follows, that, as he who supplies his wants out of the goods of fortune, thereby exercises both his own right and the right of Nature, so, whatever things he appropriates to himself by the just use of his rights and faculties, become his own property; and nobody, without breaking the law of justice, can deprive him of them. Therefore, these goods are by right his own, and they are held by him as his moral or juridical property.

Moreover, to impede another in the use of these acquired goods constitutes an offence against man's independence. But to divest another of his right to independence, is to act against justice. Therefore, to deprive a man of his goods of fortune, or to impede him in his use of them, is likewise an act of injustice.

Thus, the property held by man in reference to his goods finds its support in the universal and natural order, before civil rights.

484. There are things which cannot be appropriated.—Although what we have established above is true, yet there are several things in Nature which cannot be subject to individual appropriation ; such, for instance, as the air we breathe, the boundless sea, the light of the sun, &c. The reason is, that these things are so disposed by Nature as to be necessary to all, and within the reach of all. Each one is thus naturally provided for, according to his wants. Hence, as these things are absolutely necessary for all, no reason could justify their appropriation by some individuals, and not by all.

485. **Man holds dominion over the goods of fortune.**—Over those things which can be appropriated, man not only acquires the right of property, but also the right of dominion in its literal sense. Hence, in virtue of this dominion, one may dispose of his goods of fortune according to his own will, provided the end for which he possesses them be observed and respected. This power of disposal is styled dominion of property, as distinguished from dominion of jurisdiction, whose essence resides in the authority of command.

486. **Division of the dominion of property.** The fact whereby one acquires the right of property over anything, together with full dominion as to its disposal, fruits, and services, is styled perfect dominion. But, if such a fact do not produce this full dominion, and if the possessor be restricted in its disposal and use, his dominion would be imperfect.

Again; when imperfect dominion includes the right to dispose of a thing, but not of its fruits or services, it is said to be direct. On the contrary, when one has no right to the thing itself, but only to its fruits and services, this imperfect dominion is called useful or indirect.

Although this indirect dominion constitutes, in itself, a real right to the fruits and services of a thing, yet, the simple word, dominion, always implies perfect, or at least, direct dominion.

487. **Use and Usufruct; Servitude and Possession.**—Indirect imperfect dominion is divided into use and usufruct. By the word use, not of fact, but of right, we signify that moral faculty whereby we receive as ours some of the fruits and services of a thing which belongs to another; such fruits and services being necessary either to ourselves or family. The person who enjoys this right is commonly styled, in Latin, *usuarius*.

Usufruct is the right of fact to exact as our own all the fruits and services derived from something belonging

to another. Hence, he who has the use of any property, and who, though having no right or title of ownership, reaps the profits thereof, is named, in Latin, *usufructarius*. Use and usufruct differ from each other thus: by the former, one has a right to take from what belongs to another only that which is produced by the thing itself; and, by the latter, *i.e.*, usufruct, a person has a right to receive the fruits and services of the thing produced, together with the right to sell them, and even the usufruct itself; though he is strictly obliged to preserve the nature and substance of the thing whose ownership belongs to another.

Servitude.—We here speak of real, and not of personal servitude. This is also a kind of indirect dominion, more limited than use and usufruct. Servitude may be either active or passive. Active servitude is the right inherent in a possession, or in an owner, to derive from what belongs to another some special benefit, as, for instance, in the case of a path-way, or of water for irrigation. Whereas, passive servitude is the onus or obligation inherent in a thing, and, consequently, in its owner, of rendering service to another. In civil law, servitude generally signifies a right or title to the use of a thing, either for a general or particular purpose; such, for instance, is the right to a path-way, to water, to the running of pipes, drains, &c., on another man's land.

The rights and duties derived from servitude are called real, because their titles are so united to a thing as to be always adherent to it, and to cause the obligation and benefit to go together with it, when transferred to any new possessor. Hence, we at once see that servitude differs from use and usufruct; the latter being a personal right, whilst servitude is a real one.

Possession.—Another kind of property obtainable over the goods of fortune is possession. This is an actual occupancy of a thing, whether right or wrong.

The simple retention of a thing is not sufficient to constitute possession. A carrier, for instance, may bear upon his shoulders the goods of another; or a man may have them in his depository, under safe keeping; but such occupancy could not be considered true possession.

Neither does it directly consist in one's dominion over a thing, nor in his right to possess it and to make use of it; for, if a man be robbed of a thing, he would not thereby lose his right of dominion over it, but its possession.

Lastly, the retention of a thing which, in its species, is not subject to appropriation, cannot be true possession:—*e.g.* a person who steals a child cannot morally possess it.

In order to constitute a full and righteous possession of anything, there must be, first, a physical and moral, true and real, retention of a thing, *cum adminiculo corporis*, as jurists say; secondly, a retention of it as one's own, or with the idea of becoming its owner, *cum adminiculo animi*; and, thirdly, the retention of a thing capable of being retained as one's own, and of becoming one's property, *cum adminiculo juris*. Let it be observed, however, that the support emanating from right, in order that retention may become possession, ought to be in reference to the thing according to its nature. Hence, in jurisprudence, a robber may maintain his possession of a thing against other robbers.

488. *Bonâ*, or *malâ fide* Possessors.—The possessor of a thing which is not his own may hold either lawful or unlawful possession of it. He who retains as his own what does not belong to him, but who fully entertains the belief that it is his own, is called a *bonâ fide* possessor. On the contrary, he who retains as his own what he knows to belong to another is a *malâ fide* possessor. A *bonâ fide* possessor, besides having the right

to maintain his possession of a thing against others, may maintain it even against the real owner, until the latter has apodictically proved his ownership. And, if a *bonâ fide* possessor doubt whether what he retains really belongs to himself, or to another, he may continue to retain it, because, in *dubiis, melior est conditio possidentis*; but he is bound to solve the doubt if he can.

With regard to a *mala fide* possessor, we say that he is nothing less than a robber, and that he is, therefore, bound to restore to its real owner whatever he has thus wrongfully appropriated.

CHAPTER IX.

VARIOUS MODES OF ACQUIRING DOMINION OVER THE GOODS OF FORTUNE.

489. The various modes, whereby a person can become the owner of a thing, may be reduced to five, viz., Occupation, Accession, Prescription, Hereditary Succession, and Transaction.

Before treating of these modes of acquiring property, we will state the three different conditions surrounding things capable of being appropriated. First, they may be things which have no owner; secondly, they may be things whose ownership is either uncertain, or unknown; and, thirdly, they may be things which are known to have an owner, and which are held by others.

490. Mode I.—Occupation.—Those things which do not belong to any one, naturally become the property of their first occupier. The simple fact of occupation is sufficient to give him the right of appropriating such things to himself, and of calling them his own. By occupation, we signify the real act of taking possession of a thing which belongs to nobody, with the intention

of making it our own, and using it for the purposes of life. We say the real act, because, in order to occupy a thing, it is not sufficient to say, on seeing it,—“I should like this to be mine;”—but we must positively and physically appropriate it. The manner of taking may be diverse, but the act must be real.

Such movable goods as are the natural production of the soil belong to the first occupier. But, with especial reference to the soil itself, we maintain that, in order to occupy it, one must till it, and cause it to produce the fruits which are necessary for man’s existence. We also hold that, if the first occupier were to quit the land, and take up his abode elsewhere, he would thereby lose his right to it, and its possession might pass to another. Indeed, God created all earthly things for man, and implanted in him a desire for those things, and, at the same time, gave him the physical power to take them. Hence, he who appropriates to himself that which belongs not to another, acts according to the dictates of Nature, and causes that which was created for him to become his own. Therefore, occupation is, without doubt, an honest, efficacious, and right mode of obtaining possession of things which belong to no one in particular, together with full dominion over them.

491. Mode II.—Accession.—Another mode of acquiring dominion over things, whether belonging to another, or not, is by accession. By this term, we signify the act of forming one whole thing by the conjunction of two parts. That part which is the most important in the formation of this whole is called the principal part; the other is called the accessory. Not unfrequently, that which is physically accessory to the whole may be judicially or morally considered to bear the nature of the principal part; for instance, a picture on canvass appears to be an accessory, but it is generally held to be the principal part of the whole.

Now, as the whole, which is the result of the conjunc-

tion of the two parts, cannot at the same time belong to two different persons, it should, in virtue of accession, be considered as belonging to the owner of the principal part ; because it is unquestionable that the greater part draws with it the less, and therefore, that the accessory, which is the less, ought to follow the principal part. In many cases, however, the owner of the chief part should duly compensate the owner of the accessory, if, through no fault of the latter, the accessory part was joined to the principal.

The modes of accession are various. Two are natural ; all the others, artificial. Hence, they are so distinguished.

The two modes of natural accession are birth and alluvium. By the first, a person becomes the owner of a thing, and of all that it brings forth. By the second, the owner of land becomes possessed of all the deposits of earth, sand, gravel, and other matter, transported thither by rivers, floods, &c.

The modes of artificial accession are likewise various. They are, (a) Simple accession ; as when a person executes a work on something belonging to another ; e.g., a picture produced on canvass belonging to another. (b) Specification, which is the production of some special form out of a thing belonging to another ; e.g. the making of a statue out of a block of marble which does not belong to the sculptor. (c) Combination or mixture ; building or plantation. In one word, any fusion of any person's things with those of the same species belonging to others ; e.g. the erection of edifices, the planting of trees, &c., on another's land ; though a tree, planted on ground belonging to another, will never belong to the latter until it be rooted. The rule to be adopted in the solution of all the imaginable cases that may occur in reference to artificial accession is the following :—“The owner of the principal part always becomes the owner of the accessory, according to the civil laws of each country.”

492. Mode III.—**Prescription.**—The third manner in which dominion over things may be acquired, is by **Prescription**. The rules to be adopted in reference to this mode, are laid down by the different laws of different countries. As it is not within our scope to treat of these rules, we must simply direct the reader to appeal, in any case of great concern, to the laws of the country in which the case has arisen. We will state, in brief, that prescription is in conformity with the equity of the natural law, whereby one acquires the property of others, without the consent of the actual owner, by a mere *bond fide* possession of it, during the time, and according to the course established by the civil power. Prescription is, in itself, the safeguard of one's goods. On it depends the security of property; and, without it, one's property might be exposed to a thousand aggressions; for cunning pretexts, and ancient titles, whose fictitiousness the real possessor cannot, without the greatest difficulty, prove, are seldom wanting to crafty and malignant claimants. Therefore, it is in accordance with the dictates of reason, that a person who, for a determined length of time, has peacefully held *bond fide* possession of property, should, in virtue of such possession, acquire full dominion over it.

493. Mode IV.—**Inheritance.**—The fourth mode of acquiring property and dominion over the goods of fortune is by successive inheritance, or hereditary succession. The rights of succession depend not upon the valid will of any person deceased. By hereditary succession, a man acquires all the goods and real rights which his predecessor held by descent. The successor is commonly called the heir; and the goods thus acquired are styled his inheritance. An heir steps forward, as it were, to occupy the place of the one who has predeceased him; and he continues to be juridically the same person as the deceased, by becoming the subject of all his real, but not of his personal rights; because the latter are, by Nature, limited to their possessor.

Inheritance is justified by the dictates of sound reason. Indeed, it is an undoubted fact, that men, though all naturally equal, bear different relations to one another, and are connected together by different ties, this being the result either of their own actions, or of the work of Nature. Hence, it is also a fact, that, although one may say of another,—“That man is my equal ;” yet, another may also say, “ That man is my fellow-citizen ;” or furthermore,—“ He belongs to my family ;” “ He is my father,”—“ My brother,”—“ My son,” &c., as the case may be. Thus, one person may be bound more closely than another to a third ; and, of this third, he may say with greater reason than another,—“ He is mine.” If, therefore, one may, in preference to others, call a dying person his own, he may likewise, with greater reason than others, claim as his own all the things that, by the same title, belonged to the deceased. No one could refuse a son the possession of his father’s dead body. Why, then, should he be deprived of his father’s goods, and of the real rights belonging to his personality. Hence, if a man can call a dead person his own, there is nothing to prevent his claiming all that belonged to the deceased.

There is, however, a stronger reason than the above, which justifies inheritance. It consists in the possession of goods, in virtue of the family bond ; by which bond, the subject of properties and rights is the whole family body, of which the deceased person was a member. Therefore, as it is according to Nature, that the living members of a family should be the possessors of its existing goods, they must also, *a fortiori*, hold possession of them, when the head has ceased to live.

Lastly, the tie of consanguinity which binds together the members of a family affords another reason why the goods of deceased persons should become the property of their nearest relatives. It is unquestionable that this natural tie of blood influences relatives to love and wish

well to one another, and that it strengthens the duty of both filial and paternal piety, which is always presumed to exist, until the contrary be manifested. Consequently, when a person is dead, it is presumed that, in virtue of the love he bore his relatives, his goods should fall into their possession.

For these and many other reasons, we may safely conclude that, according to the dictates of Nature and reason, the property of a deceased person should pass to his relatives. To this effect, every nation has its own special laws, whereby are defined those limits of relationship, beyond which there can be no claim to inheritance. It is not within our scope to lay down principles of jurisprudence, but of philosophy; therefore, as regards the various modes of inheritance, &c., we refer the reader to the laws of his country.

494. Mode V.—Transactions.—This mode of acquiring dominion over property is entirely different from the modes whereof we have already treated. In a transaction, everything depends upon the will of two persons—viz., the first and second possessors; whereas, in the other modes, possession is frequently obtained by the will of only one. We here speak of things, which, belonging to one person, pass by virtue of the united will of two individuals into the possession of another. The method of procedure, whereby the master of a property surrenders it to another, who, on his part, freely accepts it as his own, is generally styled contract. And, as a free surrender of property, along with its rights, is produced only by way of contract, we will treat of this subject in a separate chapter.

CHAPTER X.

CONTRACT, AS A MODE OF TRANSFERRING
PROPERTY.

495. In order to afford a correct view of all that we propose to treat of in this chapter, it may not be here out of place to prove at once the faculty or right of an individual, whereby he may alienate his own property, and transfer it to others.

The law of justice, which calls moral property into existence, forbids one to take from others that which belongs to them ; but the same law does not command every one to retain what he has. Even if the laws of self-preservation and family maintenance were to direct a person to retain his property, it would not follow that his alienation of it would be invalid ; for, according to the nature of dominion, he has the right or power to dispose of, or alienate it, according to his own will.

Moreover, in reference to things over which a person exercises the rights not of dominion, but only of property, and which, therefore, cannot be alienated, we say that, though both the disposer and the recipient of them would be guilty of wrong-doing, still, in the unlawful use of things thus alienated, justice would scarcely be offended ; because all the duties of justice, proceeding from the natural equality of men, are corollaries of the duty whereby one is forbidden to arrogate to himself any superiority over his equal, by injuring either his existence, his integrity, his liberty, or his independence. But, when once a person has subjected himself and his goods to another, there no longer exists this violation of liberty and natural equality. Therefore, the action may, indeed, on account of its opposition to the general order established by God, be in itself bad ; but, once performed, it ceases to have the malice of injustice which we speak

of, because it no longer violates the law which forbids any disturbance of another's rights, according to the generally received rule, *Volenti et consentienti non fit injuria*.

As regards the goods of fortune, dominion over them may be relinquished in three ways—viz., by abandonment, by donation, or by exchange. By one's abandonment of any possession, he leaves it without an owner; and, therefore, its first occupier subsequent to its abandonment may claim it as his own. Donation and exchange are classed under the generic name of contract, whereby the property of one master falls under the dominion of another.

496. **General definition of Contract.**—Contract, generally understood, is a compact or covenant between two or more persons, whereby something must be either accomplished, or bestowed. This contract always implies, on the one hand, a promise, and, on the other hand, an acceptance. It may exist either between two persons only, between one and more, or between numerous individuals; one party promising to perform or grant something, and the other accepting the promise.

497. **Different species of Contract.**—When, in the covenant, only one party makes the promise, and the other accepts it, the contract is said to be unilateral, because it produces an obligation only on the party promising. It may also be styled gratuitous, because he who makes the promise is willing to give, without receiving anything in return. Contracts of this nature, by whatever name they are distinguished, are always, in substance, a pure donation, whereby the owner of a thing, voluntarily and without any consideration or obligation of justice, transfers to another all right and title to the thing given. We say, "without any consideration or obligation of justice," because, if a thing were given under the title of gratitude for special services rendered, such a donation would be styled

remunerative, to distinguish it from a gratuitous gift, which arises out of pure liberality.

498. **Onerous Contract.**—When, in a pact or covenant, both parties reciprocally bind themselves to an accepted promise, the contract is called bilateral, because it produces an obligation on both sides. It may also be called **onerous**, because it imposes on both parties a burden, through which they become recipients. Whatever name be given to an onerous contract in its different species, it is always, in substance, either an exchange or a sale.

Exchange and sale differ from each other thus; by the former, a person receives, in return for a quantity of merchandise, another quantity exactly in proportion to that which was given; and, by the latter, a person receives money, as the equivalent price of goods delivered. Hence, these transactions come under the name of contracts. An onerous contract is resolved into two conditional promises. When the conditions are verified, both parties are bound by their respective promises, unless one of the two has, before the verification of the conditions, expressed his unwillingness to abide by his promise.

499. **Equality of value is essential to an onerous Contract.**—In order that a contract may be valid, there must be equality of value between what is given, and what is received. In fact, when a person enters into a transaction, he transfers to another, in virtue of his own will, the dominion which he holds over his own property. He thereby intends to acquire other property more useful to himself. Hence, in order that his intention may be fulfilled, he is willing to give in proportion as he receives. If the means, whereby he desires to obtain other property, be of a peculiar and uncommon nature, he may himself establish its value; because he alone can estimate the sacrifice which he makes in transferring it to another, and he alone can assign the corresponding

compensation. But, with regard to ordinary things of public commerce, and whose value is publicly estimated, it would be unjust to demand and exact for them a price beyond their established value. Moreover, when a purchaser neither explicitly nor implicitly consents to give for a thing more than its fixed value, it would be unlawful, unless greater reasons prove the contrary, to retain more than its established price.

500. A substantial error renders a transaction null and void.—If equality of value is necessary for the validity of a contract, it follows, *à fortiori*, that, when a substantial error is made in a transaction, the contract is invalid; for what was promised, is, by such an error, rendered substantially different. In this case, there is no will or desire, on the part of one transactor to be made dissatisfied with the contract; nor could it be presumed that such a will existed. Therefore, the promise being thus rendered unreciprocal, the transaction is void.

501. Great fear, unjustly caused, nullifies a transaction.—A man, who, in consequence of severe menace, or grave fear unjustly caused, enters into a transaction, acts contrary to his will; and, consequently, there can be no real and mutual promise, essential to an agreement. The existence of a threat, for the purpose of inducing a person to enter into a contract, is a palpable proof that force has been applied to overcome his will; and, if he consents, he only does so to avoid a greater evil. In this case, the rights of justice are spurned. How, therefore, can justice bind a coerced contractor to fulfil his agreement? And what value can there be in a promise which he is not bound to keep? Hence, it is in accordance with the laws of logic, that forced transactions are void on the part of any person or persons who, under the influence of unlawful compulsion, have become parties to any such transactions.

In such cases, the civil laws of all countries give to

a coerced contractor the right to have the contract rescinded in the civil court. Moreover, even though the contract be, in consequence of coercion, rendered void, he who has therein acted under the influence of compulsion may, if he choose, oblige the coercing party to stand by the contract; because, as the promise of the latter was valid, that of the former may, by his subsequent consent, be likewise made valid. We say that the fear unlawfully caused must be grave; because, if it were only slight, the transaction would be valid, as there would not, in that case, be sufficient proof of the unwillingness of the terrified party to enter into the contract. Again, if the fear were caused *ab intrinseco*—*i.e.*, through some special internal motives of the contractor—the transaction would be valid, as the will to transact was externally manifested. Lastly, the fear must have been unjustly caused: for, if not, it is natural that the transaction should be valid, since it is willed as a means for the attainment of some object to which the originator of the fear has a right, and which the terrified party is bound to concede. Hence, the forced consent of the latter being valid and obligatory, the transaction enforced would be likewise valid.

502. When fear is justly caused, the internal consent is not required for the validity of a Contract.—This assertion does not contradict the statement already made concerning the invalidity of contracts, arising from a substantial error, or fear unjustly produced. We maintain that, when either error or fear does not invalidate a contract, it cannot be rendered void, if one of the contracting parties, though inwardly unwilling, do outwardly express his consent. In this case, the contractor knows the reality of things and the natural meaning of his words, and he freely expresses his consent to cede something to another; thus, he deliberately, knowingly, and seriously, enters into a contract. This having been formed, the real value or force of obligation in the pro-

duction of its effect no longer depends upon the consenting party; because God commands each one to fulfil such promises as are freely, deliberately, and conscientiously made. In virtue of God's command, it not only becomes our duty to fulfil our promises, even against our will, but it is likewise the right of those, to whom we have made a promise, to exact from us its fulfilment. A promise is, in its nature, an external act, and it consists in the manifestation of the will, even without its consent, to cede something to another. When there is a manifestation of a promise, there is a real agreement, or formal pact, whether inwardly formed on the part of him who promises, or not. It is by virtue of this manifestation, be it either sincere or feigned, that a pact or covenant is made, and that the fidelity willed by God is to be observed. Man is at liberty either to make a promise, or not; but, when he has once manifested it, he is bound to fulfil it. To admit that, after his manifestation of it, he is free to ignore it, would be the same as to admit that he has God's permission to cheat and defraud his neighbours. Therefore, as the force of obligation resting on man to perform his promise depends not on his internal consent to it, but on his external manifestation thereof, it follows that a contract is valid when it is outwardly made known, though not inwardly willed. Hence, it is in accordance with truth, that internal consent is not necessary for the validity of an agreement.

503. Persons capable of forming a Contract.—From the nature of a contract, it is clearly evident that only those persons can become parties to a contract who possess the use of reason, and who exercise dominion over their possessions. Without the use of reason, and the power to dispose of things, a person cannot validly enter into a transaction; for no one can rightly promise to give what he does not fully possess. Nevertheless, in every country there are special civil laws referring to

persons capable of making contracts, and fixing the necessary conditions.

504. **The matter of a Contract.**—It is essential to a contract that the things in negotiation should belong to the contractors themselves, unless other persons be duly deputed to transact affairs on their behalf. Moreover, whatever things form the matter of a contract must be within the range of law and possibility, since it is manifest that no obligation can arise from impossibility, and that no one is allowed to disobey God. But, if a party to a contract enters into unlawful transactions, such transactions are null, unless rendered valid by the civil law.

505. **Various species of gratuitous Contracts, or Donations.**—The specific differences existing between contracts depend upon the diversity of their matter; and they are variously named, according to the different objects in negotiation. Hence, a gratuitous contract may come under the name of:—

First, **Donation**, which signifies the bestowal of a thing on another, without any expectation of recompense.

Secondly, **Commodity or convenience**, which is the granting of something to another, to be used for a determined time. This may also be termed a **loan**.

Thirdly, **Deposit**, which signifies the entrusting of anything to another's guardianship, without granting permission to use it, and without expecting any remuneration to be given to the depositor.

Fourthly, **Legacy**, which is a gift or bequest of personal property willed to another, styled the **legatee**, and to be conveyed to him by the **testamentary executor**.

506. **Various species of onerous Contracts.**—The different species of onerous contracts may be divided into **nominated** and **non-nominated**. By the former, are understood those which bear a particular name; and, by the latter, those which have no special name. Every species of onerous contract may be described by one or

other of the following formulæ:—**D**o ut des; **D**o ut facias; **F**acio ut des; **F**acio ut facias: each of which may be respectively rendered, “I give, that thou mayst give;” “I give, that thou mayst do;” “I do, that thou mayst give;” “I do, that thou mayst do.”

To nominated contracts belong, buying, selling, exchange, lease, rent, annuity, &c. The consideration of these various species of contract would lead us into details of jurisprudence and political economy, which do not lie within the scope of this work. We shall, therefore, proceed to discuss other questions of greater importance in reference to contracts or *quasi* contracts—viz., **G**ambling, betting, and usury.

507. **G**ambling and Betting.—By gambling, we mean exercise or play, either for amusement, or stakes. In such exercise or play, whether with, or without, instruments, the players generally prefix an end to be gained under certain rules, either by means of their ability, or by chance. When the end is attained, the game is concluded, and the successful player is said to be the winner. In this sense, play is always an amusement. But when stakes are reciprocally laid on the first winner, either by the players, or the spectators, play is constituted a means of transferring property. In this sense, it is gambling.

The justice of this agreement, or quasi-contract, resides not only in the equality of the stake but also in the necessary conditions, independent of the skill or ability of the players. Hence, the same instruments and rules must be adopted by all. Should the ability of one surpass that of another, some advantage ought to be allowed to the less skilful player. No one, however, without violating the laws of justice, can fraudulently take any advantage. Hence arises the obligation of restoring the stake, when unjustly won. Gaming, when practised within due limits, is, in its own nature, honest and lawful.

However, in consequence of the base passions of men,

gaming, although in itself lawful, for the most part degenerates into dishonesty and immorality. This is especially the case when it is resorted to as a regular means of livelihood and of domestic support ; and, as such, we reject it as being unlawful. For, if we examine it in detail, we find that its substance may be resolved into a mere donation, or rather a conditional donation ; for the loser hands over to the winner that which was promised, without any benefit or service accruing to himself. Now, although, because the cession is freely made, and because the winner is dispensed from any title of gratitude towards the loser, justice is saved, yet gaming is the cause of an unlawful transference of property by one of the persons; and, consequently, disorders and evils ensue.

What has been said with regard to gambling, may also be applied to betting, with this additional remark, that its abuse often tends to the ruin of families, the demoralization of individuals, and to countless and inevitable evils in the whole social body.

508. **Lending and Usury.**—An agreement, whereby either money or goods are, for a determined time, submitted to another's use, on the condition that they be returned, or that their equivalent value, in money or goods, be restored, is termed a loan. When the lender demands more than a just return for what he has advanced to the borrower, this illegal interest takes the name of usury.

We will lay aside the questions raised by ancient moralists regarding the justice or injustice of usury, and we will simply say, that as, in present ages, money is a quasi-necessary means of obtaining the essentials of life, it follows that, if a man, instead of investing a sum of money in commerce, were to exact for its loan a profit equivalent to that which such investment would bring, he would not thereby injure justice. In other words, a lender, in order to ward off a *damnum emergens*, or a *lucrum cessans*, may be perfectly justified in exacting

for his loan a profit equal in value to the damage which might accrue, or to the gain which he would sacrifice by not investing his money in business.

509. Working men have a right to their Wages.—Manual labour belongs to that species of onerous contract, described by the formula, *Facio ut des*—“I do, that thou mayst give.” In all onerous transactions there must exist an equality between what is given and what is received, and, therefore, between the work done, and the remuneration accepted. The equality of this contract is to be found in the fitting self-support to which a labourer has a right—viz., the just reward necessary for him to maintain life, without luxury or refinement.

In fact, every man is capable of at least tilling the soil, and of thereby deriving the means of support for himself and family. But if, by cultivating the soil, he can obtain these necessaries, he must, *à fortiori*, expect an equal recompense for his labour, especially when superior skill and exertion are required. It is just that he should receive the value of the products which the soil yields. All men are obliged to work, and, consequently, it is right that they should derive from their labour what is required for their support. If masters and working men would keep this point in view, those disastrous events which so frequently disturb the happiness of society would never occur. Strikes are now-a-days of no uncommon occurrence. The evils consequent upon them are great and innumerable; and the cause of them is to be attributed to a usurpation of rights, either on the part of the masters, or of the labourers.

If order and contentment are to exist between employers and employed, the principle of just recompense for labour, according to its perfectibility, must be maintained by the masters. And let labourers of all classes understand that they have no right to expect more than a just recompense.

CHAPTER XI.

DUTY OF PRESERVING OUR PROPERTY.

510. So long as a man neither abandons his property, nor gives it away, nor alienates it by contract, the moral dominion over it resides in himself. The property which a man possesses belongs to him for the simple and supreme reason of the existence of everything—viz., the Will of God ; and no man can destroy what is willed by Him. Still, a person often loses the physical dominion over his property, in virtue of the physical force made use of by another. The act whereby one's physical dominion over a thing is lost is called Theft, if it be performed without the master's knowledge, or by stealth. But, when the act is one of open violence, it is called Rapine.

511. Our Right of defending our Property, even by slaying an unjust Aggressor.—In the first place, we possess the right of defending our own property. Moral property consists in the physical and juridical ownership of a thing. It is an exclusive faculty to appropriate an object for one's own purposes, and for the attainment, preservation, and perfection of the commodities of life. This moral faculty, or right of preserving an object for the acquisition of our end, and of resisting the efforts of an unjust usurper, is contained in the very meaning of the word property. To deny this right would be to render the word property a mere illusion. We admit that our rights are based on the duties of others, but, at the same time, that they are distinct from them. The words right and duty differ from each other in meaning. Right ought not to be restricted merely to the duty of others, or to a negation of our own duty or liberty to do certain things ; it must extend to the moral faculty of resisting any one that would prevent us from keeping what we have received

from God. If God gave to man the physical liberty either of fulfilling his duty, or of disturbing the order by his physical influence, why should He forbid him the liberty of defending his rights, by forcibly repelling the disturbers of order? Is it, forsooth, against the Will of God to employ force for the maintenance of that order which He Himself established? Reason could never admit this. Hence, it is evident that man has a right to defend whatever belongs to him, and consequently his property, against any unjust usurper.

In the second place, we speak of even killing an unjust aggressor, in defence of our property. Provided the defence be just, reason tells us that the infliction of death in such a case would likewise be just. By an unjust aggressor, we mean a person who, without any right or title to take away our property, nevertheless strives to deprive us of it. If he had a right to the property, his aggression would not be unjust. We hold, therefore, that to employ force against force, when the latter is unlawfully used against the rights of others, is not a disorder, and consequently, that it cannot be opposed to the Will of God, Who loves order. *Ergo*, we may lawfully use physical force to repel unjust physical force.

From the fact that the defence here spoken of is not opposed to the justice and charity due to our equals, we prove that, by employing physical force against an unjust aggressor, we maintain order. This defence is not opposed to justice, because he who defends himself and his possessions neither assaults nor usurps what belongs to another. He only repels an unjust encroachment. Now, it is not the repulse of the aggression, but the aggression itself, which is opposed to justice. Hence, if the action performed by a rightful owner in defence of his possessions cause evil, and even death, to the aggressor, the latter has freely exposed himself to the consequences of the action, by placing himself in contact

with a force lawfully used for the defence of rights. In this case, there is no offence against justice on the part of the defending possessor, therefore his defence is lawful. There is not herein a collision of two rights, but right contends against wrong and insolence; and arbitrary power and insolence cannot destroy the right of another. Moreover, if this destruction of right is not permissible, he who defends his right can do so without considering the fatal consequences which may thereby befall the man who would destroy it. If an aggressor be desirous of preserving his own life, to which he has a right, let him not strive to usurp the things to which he has no right. But, if he will not respect his own right, let him not suppose that others should refrain from maintaining theirs. Justice forbids us to disregard or injure the rights of others, but permits us to defend our own.

Again, in repelling an aggressor, even by taking his life, we offend not against charity. True charity is according to reason, and, as it emanates from the Will of God, it prefers truth, order, and the good, willed by God, to the apparent good, willed by man. If charity recoils from the infliction of death on an individual, she has a far greater aversion to the commission of crime. But robbery is always a crime, disturbing the order established by God, and it may be averted by the person assailed, if he so choose; or even if, in order to avert it, he find it necessary to continue to repel his assailant until the latter be killed. And well may he say, *Let him die*; for not the death of a robber, but his act of theft is contrary to the order established. The charitable man also entertains the deepest love for order; hence, between rapine and death, he prefers that the latter should befall the aggressor, nor can we condemn his preference.

Neither can it be imputed to him that he is guilty of murder. He does not kill, he simply defends. Human

actions are specified by their object, and not by their effects, which might occur by accident. The man whose rights are molested acts not in order to kill the aggressor, but to preserve his own property. This preservation depends on the application of the means necessary to ensure it—viz., the action of physical force, which is termed not homicide, but defence. A physician, or a soldier, or an executioner, when acting in his official capacity, is not guilty of murder. Similarly, the action, whereby an unjust aggressor is repelled, ever contains in itself the essence of defence, and not of murder. Defence, being in itself honest and lawful, cannot become the opposite, simply because it inflicts an evil on a person who, through his own malice, causes the action to be fatal to himself.

Were we to deny the honesty and lawfulness of defence, we should open out an endless path for rapine and plunder. Nothing would so much incite robbers to the commission of incessant and unspeakable crimes, as the condemnation of the doctrine of defence; for they might in that case simply present themselves before any honest man, and demand the surrender of his property, being aware that he would offer no resistance. Is the welfare of society better promoted by tolerating a scoundrel, than by suppressing him? Let defence therefore be duly used against the aggressions of dishonest and wicked men. Crime will be thereby diminished, the welfare of society will be maintained, justice will not be offended, nor will charity suffer.

Nevertheless, this doctrine is not applicable to the case of a simple theft; because the proofs adduced to corroborate our teaching are insufficient to justify the killing of an adversary even in defence, if he himself does not make use of physical force, and if, when detected, he at once desists from his evil action; for, thus, the robbery is already impeded. The same is to be said when a man, impelled by hunger, commits a

theft ; and also when, even maliciously, he steals something of no great value ; because, in the former case, it is supposed that the owner, if asked, would appease the man's hunger ; and because, as regards the latter, there is less malice in taking a thing of no value, especially if, in so doing, there be no violence used.

512. What is to be done with burglars ?—Against those who make robbery their profession, the owner has a right to protect his goods by the most efficient means—viz., by physical force, even though death should be thereby inflicted on the burglars, when caught in their evil action. All the reasons adduced in proof of what we have stated above, will hold good likewise in this case. Therefore, one of two alternatives must be chosen ; either these ruffians must be allowed to do as they like with the property of others, or they must be restrained by every sufficient means. To admit the first alternative would be wrong, because it cannot be presumed that God would sanction such a privilege. Therefore, we must admit the second ; and with good reason, for such measures of defence, although severe, are not excessive, considering the wicked lives led by these miscreants, and the atonement due to society, which, by their misdeeds and bad example, is grievously outraged.

To say nothing of the laws prescribed by civil society in reference to burglars, we maintain that, according to the dictates of reason, a private individual may defend his property against the attacks of a burglar, even by the infliction of death. In this case, not a mere man, but a professed robber is killed. That which constitutes a robber is not the greater or less quantity of goods stolen, but the malice of his action. Hence, if a burglar be killed in the act of stealing goods, we may not say that he was killed merely for committing that particular theft, but rather that, being a robber who stole goods, he was killed ; because a free being, responsible for his own actions, becomes what his actions cause him to be ; and

just as he who acts righteously is an honest man, and he who acts against reason is an unreasonable man, and he who causes disturbance is a disturber,—so, he who steals is a thief, and, if he makes robbery his profession, he is, whether he steals more or less, a robber.

Now, were we to designate as homicide the killing of a burglar, we might be allowed to apply the same name to slaughter on the field of battle; and, if we coincide in the opinion that an enemy may be justly slain on the battle-field, and that we may even rejoice at his death, why should we condemn the killing of a burglar? If the slaughter of an enemy is justified, because sanctioned by the supreme power of society, why may not the resistance offered by citizens against burglars be likewise justified, since the supreme power derives its authority from the members of society?

Robbers themselves agree in general with our statement. They seldom murmur against the punishment justly meted out to them; but they spare not spies. They are fully aware that they have merited their chastisement, and concerning it they hold their peace. We believe in a benevolent morality, and love it dearly; but we unreservedly condemn that morality, which, while showing indulgence to the assailants of men's rights and to the transgressors of the natural law, treats with severity those who lawfully exercise their rights. This kind of morality is not benevolent. It is loose and relaxed. To treat a culprit with too much compassion, while considering with indifference the integrity of individual rights, leads to the anti-social doctrine of impunity of crime, which is contrary to reason. Let a culprit have his share of compassion, but, at the same time, let honest and inoffensive men be justly treated, and let each one have his due.

513. In extreme necessity, all things are common.—Justice permits any one in extreme need to take from others as much as is necessary to maintain life. Unless

the owner of the property thus seized be himself in the same condition as he who seizes it, he may not defend it. The reason of this is clear. Goods of fortune are granted by God, first, for the support of life, and, secondly, for the convenience of all men. By this ordinance, every one may appropriate to himself such goods of fortune as are necessary for his existence and convenience. But, as life is of greater importance than convenience, one may not retain for his convenience what is necessary for another's existence.

Again, if a person, not through any absolute deficiency of goods, but because such goods do not serve his immediate wants, be in great need, he may take those of others, but he will be bound to make restitution as soon as he is able.

When, in order to save a person's life, it is necessary to consume or destroy a thing belonging to another, restitution is not of obligation; because the necessity arising from misfortune is an effect produced by God.

No extreme necessity, however, can justify a person in appropriating any goods belonging to another, except those of fortune; because, with this exception, goods are not given for the needs of all, but of the individual only. Hence, if a drop of blood were required to be drawn from another person in order to save my own life, I should have no right to draw it without his consent. The same is to be said of fame, honour, and personal independence.

When a person is in danger of losing his life, he may directly use such means as are likely to save him, although he foresees that, by so doing, others will be exposed to death. No one thereby injures the rights of others, but he preserves his own. This is applicable in cases of shipwreck, fire, &c.

514. What should we do when attacked by insane, furious, or ignorant persons, &c.?—If such persons make a direct attack upon our lives, we have a right to

kill them, if necessary, in order to protect ourselves from injury. If they only ill-treat us, we may resist them, but we may not deprive them of life. If they aim at destroying our goods, we may forcibly resist them, but we may not kill them. If they insult us by contumelious words, we should not heed them, because their language harms us not, and no importance is attached to such words. We ought thus to disregard such people, because, as they do not act according to reason, they are not responsible for what they do; and, as they do not formally violate the rights of others, they do not lose their respective rights. In a parity of evils, one may always strive to obviate his own, but he must never commit a greater evil to avoid a less.

CHAPTER XII.

THE POSITIVE PRECEPTS OF JUSTICE.

515. We have already said that the law of Justice is, in its nature, a negative precept. It is thus formulated : Do injury to no man ; Give to every man his due. Hence, it directly commands us to abstain from damaging the property of others. Nevertheless, although the law of Justice be a negative precept, still, it may, indirectly, produce in us positive duties. These may be reduced to three, which we may formulate as follows :—(1) Keep thy promises ; (2) Make compensation for damages ; (3) Restore ill-gotten goods. The last two refer in general to the duty of making Restitution.

516. Promises are to be kept.—The obligation of keeping one's promise is clearly comprehended in the observance of the order willed by God. If, after making a promise, we were at liberty either to keep it or not, where would be the respect due to our fellow-men in virtue of natural equality ? What security would there

be in the relations which men ought to bear towards one another? Fraud and deception would then be lawful, and no human power could justly punish the deceiver. The person by whom the promise was made might say that, in consequence of having changed his mind, he did not consider his promise binding; and he, to whom he made the promise, would have no right to claim its fulfilment. This is a disorder, condemned by the law of Justice. A promise is an outward fact, whereby, though what is promised may not physically belong to the promisee, nevertheless, it is morally his; because, by accepting it, the promisee already intended to adapt it to his own use and convenience. Hence, on account of this moral property or right acquired over it, the person who pledged his word is under the obligation of delivering to the promisee the physical possession also. To omit doing so, is to act contrary to justice, which commands us to give to every one his due.

517. **Right of Compensation.**—The title, whereby one holds moral possession of a thing promised, is called by juries, right *ad rem*, to distinguish it from right *in re*, which refers to real physical possession and dominion. The effects of these two rights are different. He who has only the right *ad rem*, may demand the thing thus belonging to him from that person alone who is bound to surrender possession of it. In order to obtain it, he may bring an action against him in the civil court, and this action is styled personal. On the other hand, he who has the right *in re* may claim the thing from any one that holds it, and he may maintain an action in the civil court for its restoration. This proceeding is termed by jurists a *real action*. If access to a civil court be a matter of impossibility, the owner of a thing may, in order to obtain it, act in his private capacity, and take whatever measures he may deem advisable. In virtue of his right *in re*, he may seize the thing wherever it is, and from any one that holds it. But, if his

right be only *ad rem*, then he may ask for it only from the man who owes it; and if the latter refuse to surrender it, the claimant may take from him, either by public or private means, whatever can compensate for the loss sustained by the non-fulfilment of the promise. This is a loss caused by unfaithfulness, and, therefore, atonement is due.

518. **Duty of Restitution.**—The duty of restoring ill-gotten goods stands in the same relation to justice, as the duty of not injuring another's property. By restitution, we signify the act of giving back to another what he has been unjustly despoiled of, and of reinstating an injured person in the same condition as that in which he stood, before the injury was inflicted. Whoever does harm to another is in justice bound to repair as far as possible the wrong which he has done.

There can be no question as to the existence of this duty. It is self-evident that to retain what belongs to another, or to uphold an injury done to the law of justice, not only by possessing the things of others, but also by depriving the real owner of their use, is a protracted robbery. Until restitution be made, the violation of justice continues to exist *in facto*; and every distinct act, performed for the retention of the goods, becomes a new transgression of one's duty.

The obligation of making restitution exists, not only in reference to violated property, but also as regards any injury done to the health, life, liberty, honour, reputation, &c., of any individual. Restitution is excused, only when it cannot possibly be made. But if, in course of time, this impossibility were to become a possibility, the obligation would again arise, and continue to exist until restitution had been made.

With reference to the goods of fortune, if a person cannot make restitution in the same species as that of the things taken, he must make compensation by surrendering other goods; because they are directed to the

one end, and, in commerce, one thing, having a special value, may be compensated by another. The same cannot be said of individual goods, such as fame, health, &c. In these matters, restitution must be made in the same species. Hence, if a person's fame or good name be injured, the injury must not be repaired by means of money, because the person wronged would not thereby be reinstated in his former condition.

Moreover, let it be observed that if, by wilfully injuring any person's property, the injury be indirectly extended to other property also, the offender must make satisfaction for both losses inflicted on the owner. The entire evil was caused by a violation of justice, and, according to justice, it must be repaired. Hence, he who, by killing or mutilating another, has indirectly injured either his victim's property or that of another, is obliged to make restitution for all the losses that may ensue therefrom, and which were foreseen.

519. **Duties of those who hold property belonging to others.**—The sources of restitution are twofold :—(1). The detention of another's property, without any right or title to retain it. (2). The damage unjustly caused by taking, retaining, or destroying the property of others, or by impeding rightful owners from the acquisition of what belongs to them.

(1). He who, without any fault of his own, holds the property of another, is bound to restore it to the owner ; according to the ancient saying, *Res clamat ad dominum*. It is, therefore, in accordance with justice and the natural order, that he who possesses things belonging to another should restore them to the real owner, unless the latter allow them to be retained. The person holding the property may, in reference to the detention of the goods, be acting either in good or bad faith.

When a *bond fide* possessor becomes aware that what he retains really belongs to another, he is bound to make restitution not only of the goods which he holds,

but also of the interest which, apart from his industrious co-operation, might have accrued from them. If the goods have been partially destroyed or consumed, he ought to surrender the remaining portion of them, and likewise whatever he may have acquired by their previous use. If, however, the goods yet exist, but, in virtue of his exertions, have increased in value, he has a right to be recompensed for having rendered them more profitable.

A *mala fide* possessor is obliged to restore not only the things which he unjustly retains, but also whatever he has gained by their detention; nor has he any right to be compensated, either for having improved their condition and value, or for any loss that he may have sustained by retaining them. If they have been destroyed, he must make good the damage caused to the rightful owner through being deprived of his property.

(2) The second source of restitution is the damage unjustly caused. It is in accordance with justice, that he who is the cause of injury to others should, under certain conditions, repair it. Those conditions are three-fold—viz.: (1) He must be the real and efficient physical, or moral cause of the damage done. (2) He must be a guilty cause. (3) He must be an unjust guilty cause. When any one of these conditions is wanting, the duty of making restitution does not exist; because no one is responsible for that injury which he has not done, even though he may have desired it; for, only by external actions, can justice be violated. Hence, to wish evil to others, though opposed to charity, is not an offence against justice. The second condition is necessary, because, if that which is done be lawfully performed, any injuries arising therefrom are to be attributed not to a violation of rights, but to misfortune. That the third condition is also required, there cannot be any doubt; because, if the action, though unlawful, is not contrary to the rights of others, it is not opposed to justice; and, therefore, there is no obligation to make

reparation for damages accruing to those whose rights are not violated. No one can justly exact of others to abstain from doing evil to favour his own interests.

520. Conclusions drawn from the above statement.—1. If John's crime were imputed to James, without the former taking part in such imputation, James could not demand compensation from John, because he was not the efficient cause of the imputation, but only an occasion of the damages resulting therefrom.

2. If a person, through another's bad example, be led to injure any one, the injured party may justly demand reparation, not from him who gave the bad example, but from the person who has inflicted the injury ; for it is the latter who has opposed his rights.

3. He who, in just defence, deprives another of life, owes no satisfaction to any one, since he is not the guilty cause of the injury.

4. He who unlawfully puts another to death does not thereby become a debtor to those who receive benefit from the person killed, because they have no right to it, and, therefore, their property is not injured.

Lastly, there are other cases of injury, arising from moral causes, for which we must render satisfaction. They are :—

(a) Whosoever, either by command, advice, aid, or encouragement, effectually influences another to inflict an injury, is obliged to make reparation, because he is the efficient cause of the injury.

(b) For the same reason, any one, whose duty binds him to prevent injury to his master, becomes, by a neglect of that duty, the negative efficient cause of damage, and he is bound to make it good.

(c) Whoever receives ill-gotten goods must either restore them, or make restitution to the extent of the quantity received.

(d) Those who, either physically or morally, take part in the perpetration of a robbery, being all efficient causes

of the entire injury, are each obliged to make restitution, *in solido*, of the whole of the property taken, if the others either cannot or will not fulfil their obligation.

These, and many others not mentioned, are the corollaries or conclusions to be drawn, in reference to the duty of making restitution. It is to be regretted that the generality of men do not understand their duties, and that those who comprehend them are not prompted to fulfil them; for, from their neglect and omission, arise the many protracted evils in society.

CHAPTER XIII.

NATURAL THEOLOGY.

521. Duties of Man towards God.—In the abstract, the duties of man towards God are such as are fulfilled by actions whose object is God Himself. In the concrete, and with regard to their matter, they consist of the actions themselves which are to be performed in reference to him; and, although they are multifarious, they are all comprehended in one genus, whose formula is,—Love and honour God.

522. Positive and Negative Duties towards God.—Because the duty of loving and honouring God involves the performance of some things and the omission of others, it is both positive and negative. The positive duties may be reduced to four:—

1. To recognize God as He is—viz., an Eternal Being, most perfect in His attributes, the Creator of all things visible and invisible.
2. To confess and worship Him as such.
3. To love Him above all things, on account of His infinite goodness; if not with an intense affection, at least with mental appreciation, so that nothing should

be preferred to God, and that we should be ready to lose everything for His love.

4. To depend on Him alone as the Supreme Master and Lord of all things.

The negative duties include the omission of all that is contrary to the positive—*e.g.*, to hate, blaspheme, and deny God. The fulfilment of the negative precepts consists in abstaining from all such actions as these.

523. Religion and its Divisions.—All the above duties towards God may be also styled duties of religion. They are so called, because, although the universal duties incumbent upon man belong, in substance, to religion, since they all refer to God; yet, properly speaking, the duties of religion are those which bind us directly to Him.

Religion, in its general sense, signifies the mode or manner in which an intelligent being acts, in direct reference to God, as his Creator. Religion may be true or false. It is true, when the mode of an intelligent being, acting in reference to God, is what it should be; and false, when it is the contrary.

Religion may be considered objectively and subjectively. In its object, it is the summary of all the duties of man towards God. In its subject, it may be defined, that virtue which prompts man to render unto God the homage due to Him.

Moreover, religion may be natural and revealed. Natural religion consists of the homage paid to God by the fulfilment of all the duties that man possesses and discovers from the order and nature of things, by means of his reason. Revealed religion may be defined, the homage rendered to God by the fulfilment of all those duties imposed by Him on men, in a supernatural and extraordinary manner.

Again, religion, whether natural or revealed, may be divided into theoretical and practical. The first has reference to what God really is, and to what He is

believed to be. The second relates to everything that one should desire and do with regard to God, or in His service. The actions arising from both constitute what is called religious worship.

524. Religious Worship.—By this is signified the homage rendered to the Supreme Being by actions of supreme love, esteem, reverence, and service. The difference between religious and other kinds of worship consists in this, that the former is always a supreme worship, which can be paid only to the Eternal and Supreme Being; whereas, the other kinds are rendered to contingent beings, on account of some special prerogatives or excellences possessed by them above other beings, whilst they are themselves, nevertheless, dependent on God, and their worship is religious but not supreme.

The religious worship paid to God is absolute. To no one can it be rendered but to Him. This kind of worship is named **Latria**. That which is given to intelligent beings is called **Dulia**, or the worship of servants. The difference between these two kinds of worship is as infinite as the difference between God and intelligent creatures, which, on the part of creatures, is finite.

525. Worship may be either Internal, External, Private, or Public.—Worship is internal, when paid to God by a simple act of the will or mind, or by merely inward acts. It is external, when these internal acts are outwardly manifested and expressed through the agency of the human physical senses—*i.e.*, by signs, motions, rites, sacrifices, vocal prayer, canticles, &c.

Private worship is such as is rendered to God by private individuals in their own name. Public worship is that which is paid to God by a public person or persons, on account of their special office, and in the name of an entire community or society.

526. Things contrary to the Worship due to God.—The first of these is **Idolatry**, which is the worship of idols or false gods.

The second is **False Religion**, which consists in worshipping the Supreme Being in a manner contrary to that which is due to Him. This kind of worship is called **Superstition**. It is an ignorant or irrational worship of the Deity. It also signifies a belief in the direct agency of supernatural powers in certain extraordinary or singular events, such as omens or auguries, unlawful observances, rites, and ceremonies, along with a belief in diabolical agencies, &c. It is a religious worship, prompted not by reason, but by error, ignorance, and passion.

The third thing contrary to the worship of God is **Irreligion**. Whoever makes a practice of this reduces himself to a semi-brutal condition, for he casts aside all care or thought of Divine things, and gives full vent to libertinism, licentiousness, and crime. Irreligion is more pernicious to society than idolatry and superstition; for the idolatrous and superstitious man preserves a belief in one or more supreme beings, and he consequently has a supreme reason for his acts of worship; and, although his belief is the outcome of ignorance and error, it exercises over him a certain influence for good, and, to some extent, causes him to act as he ought.

The fourth thing opposed to religious worship is **Impiety**. This consists in not merely living as though there were no God, but in showing Him irreverence whilst admitting His existence. It is a total negation of every kind of worship due to God, mingled with aversion and habitual despite.

The fifth thing opposed to Divine worship is **Blasphemy**. This differs from Impiety, as an *act* differs from a *habit*. It consists in any saying, sign, or fact, expressive of outrage against God. If this crime be committed by the blasphemer with his full knowledge, will, and consent, it is styled **formal blasphemy**. But if, on the contrary, the blasphemer were ignorant of the gravity of the injury contained in his act, and if he would not knowingly

have committed it, then it would be called material blasphemy, which, in itself, contains no malice.

CHAPTER XIV.

REVEALED RELIGION: ITS POSSIBILITY AND NECESSITY.

527. As philosophers, we do not intend to investigate the existence or non-existence of a revealed religion. We shall only prove, in reference to it, what is in accordance with the dictates of reason. The first question, therefore, that arises in our minds is—whether a revealed religion is in the order of possibility, or not.

We answer in the affirmative, both as regards doctrine supernaturally taught, and with reference to precepts extraordinarily imposed. Moreover, we admit the possibility of this teaching and these precepts emanating either immediately from God, or from Him indirectly, through the visible ministry of other intelligent beings. Lastly, the revelation of things surpassing human understanding, as well of others subject to the same comprehension, is in the order of possibility. The reason which demonstrates the possibility of all these different revelations is to be found in this, that they are not repugnant to the absolute and established power of God. The *onus* of proving their intrinsic impossibility, and their repugnance to the divine attributes, rests with those who reject, *à priori*, divine revelation. So long as they are unable to demonstrate this, we, as men who do not easily credit every maiden who fancies that she has been favoured with divine communications, will not be so foolish and proud as to reject a doctrine on the ground of its being revealed or incomprehensible.

To admit that God, Who gave unto men the power of understanding and communicating their thoughts, is

unable to make Himself understood when unfolding to man His cognizances, would be an act of folly. In the physical order of Nature, there are many things whose existence is a fact, but whose essence, or mode of existing, is a mystery even to the greatest and most learned philosophers. How, then, could they be justified in denying such existence, simply because it is beyond their comprehension. If from the visible order we advance a step further into the invisible, what ground is there for denying the existence of a doctrine whose nature we cannot understand? We will suppose that the man who denies divine revelation is the most intelligent being that ever did, or ever shall, exist, and that he comes in contact with a doctrine which surpasses his comprehension. He would easily perceive that, since he himself cannot understand it, no one inferior to himself in intellectual powers could fathom it, and that much less could he originate or invent it. Still, though no one could devise the doctrine, it nevertheless exists, and forms a subject of universal wonder and conversation. Some one, therefore, more intelligent than men, must have propagated it amongst them. To deny it, because it cannot be understood, is not sufficient. One must absolutely acknowledge that a power far superior to that of man has taught it. The philosopher who denies divine revelation, on the ground that he cannot comprehend its mysteries, may be compared to a deaf man who denies the influence of sweet sounds; or to a blind man who believes not in the existence of various colours; it being impossible for the deaf to experience the delights of harmony, and for the blind to appreciate the beauty of bright hues.

528. Utility and Moral Necessity of Divine Revelation.—The man who really uses his reason aright will find not only that a doctrine must not be rejected solely because it is revealed, but that supernatural revelation is, in every respect, most convenient and useful; for, even when it teaches truths of the simply natural order, it

serves him to understand them with greater facility and certainty. But we further assert that there is a moral necessity of divine revelation; and we will thus prove it *à priori*. The truths appertaining to the natural religion being so numerous and various, and some of them being so sublime and subtile, and, to a certain degree, almost incomprehensible, it would be morally impossible for men, who are distracted with innumerable cares and anxieties, to use such diligence as would be necessary to discover them. Nay, even though they were to exercise this diligence, they might, in consequence of some paralogism, be easily diverted from the real truth.

The above demonstration *à priori* is most strongly corroborated by the universal fact, that all the schools of philosophy which have rejected divine revelation have fallen into most absurd errors in reference to morality, to God, and to the worship due to Him. But, laying aside this stern and undeniiable fact, we will make the following consideration. Let it be supposed that a philosopher could build up a complete and regular system of moral doctrines as dictated by reason, and without the aid of divine revelation. It would be useless, chiefly for two reasons. First, because, through the absence of authority, it would not be accepted by the multitude, nor could it, therefore, ever stem the tide of human passions, interests, and prejudices. Secondly, because the opposition of other philosophers, inculcating a contrary system, would be fatal to its existence and influence.

In conclusion, free thinking, in the matter of religion, can but produce a confusion of ideas, and unbridled licentiousness. As it is easier to believe what one wishes, than to desire what one believes, any one, having any religious ideas at all, would be justified in forming his own religion, and worshipping his own Deity.

tion.—The possibility and moral necessity of divine revelation having been proved, it behoves every intelligent being to discover it; because the teaching of God is not less thoughtful and authoritative when supernaturally revealed, than when conveyed in a natural manner. Now, the direct way to discover the truth of divine revelation, is not to investigate the doctrine received, but to comprehend the motives which testify the divine origin of such doctrine. Revelation is a fact proceeding from the free will of God. Facts of such and such a nature, when not immediately understood, are known to be true by an examination of the witnesses who proclaim them, and by the documents which corroborate them. The nature of the revealed fact may, indeed, assure us of its possibility, but not of the affirmed event. Thus, the intrinsic perusal of the doctrine may perhaps show us that what we are taught is true, and, consequently, that possibly God taught it; but it cannot enable us to ascertain whether it was really taught, or not. Nay more, we might not even be certain of its possibility, because divine revelation may teach things, the truth of which, even when intrinsically examined, may surpass our understanding.

530. Intrinsic Marks of Divine Revelation, and their Value.—The intrinsic perusal of the doctrine of revealed religion may afford us positive arguments whereby to judge of its truth or falsehood. These arguments, being deduced from the same doctrine to prove its revelation, are called intrinsic marks. In fact, if the doctrine were to contain absurdities or contradictions, or if, in its substance, it were not to be in agreement with the divine perfections, we could only say that such doctrine came not from God; for God cannot teach absurdities, nor can He be inconsistent with Himself.

On the other hand, if the religion which is held to be revealed were to contain complex doctrines and precepts, which, instead of contradicting rational truths, would

develop them, and place them in a clearer light, and cause men to observe more perfectly the natural precepts,—this would be a positive proof of its supernatural origin.

531. **External Marks : Miracles and Prophecies.**—Those proofs of the truth of revealed doctrine which are outwardly acquired are called its external marks. They may also be styled the motives of credibility. These proofs we may reduce to two kinds—viz., miracles and prophecies. By means of these, God usually seals what is supernaturally revealed, in order either to cause or to strengthen man's belief in it.

When a miracle is shown really to exist, it becomes an irrefragable proof of the truth which it was intended to confirm. A true miracle can be performed only by God. Consequently, He could never make use of it for the confirmation of error; because God, being essentially truthful, could never countenance falsehood and deceit.

The same may be said of prophecies, which, in substance, are but miracles; for they involve a knowledge of things beyond the laws of human power and understanding.

Before proceeding to the subject of natural religion, it may be well to mention here, that religious indifference is unlawful. By this we mean a system or habit of mind, which is severed from any interest in revealed religion, and which places it in the same category as all false and invented religions. This is absurd and impious; for it declares God to be indifferent as regards truth and error, obedience and rebellion, good and evil. But this is at once an impossibility and an impiety. Ergo—

532. **Civil Tolerance may be Good or Evil.**—Civil tolerance, in a question of averting or destroying evil, may be lawful, and, in some cases, necessary. It consists in allowing citizens the full liberty of choosing that religion which they consider to be the true one, and of

fulfilling their duties towards God as they deem best. To refrain from obstructing an evil which we cannot deal with, without committing a greater wrong, or incurring a greater evil, or causing an injury to innocent persons, is not an evil. Therefore, in order that equality, peace, and union among the members of the social body may be maintained, public power must be tolerant as regards the religion practised by the subject.

CHAPTER XV.

NATURAL RELIGION.

533. We have already stated that the duties of man towards God may be comprehended in this precept: Honour and love God. It has been seen in what manner we may manifest our submission and obedience to Him—viz., by internal, external, private, and public acts of worship. We will now proceed to prove the existence of these duties.

534. **We must Worship God Internally.**—It is an innate and essential duty in man to do all that is exacted of Him by God. Now, God demands that man should recognize Him as an eternal and infinite Being, that he should adore Him as his Creator and Master, and that he should love Him as the Supreme Good, neither denying, hating, nor despising Him. Not to exact all this, would be repugnant to the divine perfections, and to the end of creation. But these acts, being in their nature internal, constitute internal worship. Therefore, God exacts, and man owes unto Him this internal worship.

535. **We must Worship God Externally.**—In fact, God not only exacts that man should inwardly entertain these feelings of due reverence and submission, but also that he should outwardly manifest them, and thereby

give adequate and becoming expression to the internal homage due to Him. In other words, man must worship God externally.

That God wills the outward manifestation of these feelings—*i.e.*, external worship,—can be proved by the fact that internal worship cannot exist without external, as we shall hereafter show. And, if inward homage must be accompanied by its outward expression, no one can doubt that God, by willing the internal, must also will the external ; because whoever absolutely wills a thing, must necessarily will the means conducive to it, together with all that concurs in causing its existence.

We have said that internal worship cannot exist without external. We prove it thus. The internal acts of the soul, if not violently repressed, naturally become external. But violently to prevent the outward expression of our inward feelings of esteem and love for God, would be to deny unto Him internal worship, and positively to offend Him by not confessing His greatness and infinite goodness. It would, moreover, be an implicit denial of Him before men, who, by not seeing any exterior manifestation of interior worship, would have reason to infer that the latter has no existence ; for, when it exists, it must naturally have some outward expression. The omission, therefore, of external worship is a negation of the internal. Hence, if internal worship is commanded by God, its external manifestation is likewise exacted by Him.

Another proof of the necessity of external worship is derived from its positive conveniency or fitness, in reference to the end of creation. In fact, our glorification of God, Who is the end of our creation, not only signifies our knowledge and love of His infinite perfections, but it is, moreover, a confession and declaration of them before all men. This is what is called external worship. It tends, therefore, to the end of creation, and is willed by God.

Lastly ; the external manifestation of love and piety towards God maintains and increases, both in ourselves and others, the internal sentiments of the same virtues ; and, moreover, it strengthens us in the observance of all the divine precepts. Now, it is God's Will, that men should adopt all due and effectual means for the fulfilment of His commands, and that they should practise what is useful for the better observance of their own duties. But external worship is a useful means for this end. Therefore, God wills it, and we are bound to adopt and practise it.

536. Public Worship is due to God.—Our reason likewise tells us that God is to be worshipped not only by private individuals, but by the whole human race, and that this worship must be externally and publicly rendered, in the name of all the members of society.

There are many reasons which can be adduced to prove the necessity and fitness of public worship. First ; public worship evidently tends to the glorification of God. Since the end of our creation is to glorify God, there cannot be any doubt that He wills this worship as a means for the acquisition of our end. Second ; it serves, like the private practice of external homage, to promote, amongst men in general, deep feelings of piety and love towards God, and tends to the better observance of all other duties, and to the maintenance of the order established. But, since men are obliged to practise what is necessary for the fulfilment of their duties, as willed by God, they must, therefore, practise public worship. Third ; this worship inspires mutual confidence, and promotes the well-being of society. It is the duty of man to connect himself with civil society, and to support its union. But public religious worship is an indispensable means for the observance of this duty, and it is, therefore, necessary. Men will respect their rights, and will help and be faithful to one another, so far as they are united to God, their common Father, and their

final end. But the aim of public worship is to unite them in all that has reference to God. Therefore, this worship is essentially useful and necessary for the strengthening of reciprocal fidelity, for the nourishment of mutual love, and for uniting men together in promoting the welfare and preservation of society.

537. **Sacrifice, and its different Significations.**—Among other acts of public worship is that of sacrifice. By this is often signified some privation or inconvenience freely sustained in behalf of others. In a religious sense, sacrifice denotes a free oblation to God of some pleasing thing, in recognition of His supreme dominion over all created objects. It is consequently the highest act of homage or worship that can be offered to any one. Every act of obedience, and every work performed in observance of the law of God may be termed a **sacrifice**—*i.e.*, the privation of a pleasing thing, and the rejection of our free will for the love of God.

In a more restricted sense, sacrifice is a free offering made to God of some sensible thing, in order to honour Him, and to acknowledge His supreme dominion over all things. When such an offering is made by a private individual, on his own account, it is said to be a **Private Sacrifice**, to distinguish it from **Public Sacrifice**, which is always made in the name of religious society by some public functionary. When speaking of sacrifice in a religious sense, we always mean an external oblation to God of a sensible thing, offered by a lawful minister, to acknowledge, by its destruction or immutation, His supreme dominion over us. The public minister who is invested with the power of offering sacrifice is commonly called **Sacerdos**, or Priest.

538. **Duty of Offering Sacrifices to God.**—In the general sense above mentioned, all men are bound to offer sacrifice to God—*i.e.*, they are obliged to renounce their own will, in duty to God, or rather, to submit it to God's Will, in the observance of all His ordinances. This is

demonstrated by the simple fact of the existence of man's duties ; for, every act that tends to the fulfilment of the law is a true sacrifice. Hence, we may lay down this great axiom : A moral and virtuous life on earth is a continual sacrifice to God. Every man is obliged to honour God. Obedience is the best act of worship, and the most acceptable to God. Therefore, no greater sacrifice than obedience can be offered, to please the Divinity.

The duty of offering public sacrifices is not limited to obedience ; it extends to outward acts, capable of publicly making known the essence of the obedience to be observed and cherished by all in the fulfilment of God's commands. The duty of offering public sacrifices incumbent on society can be proved by the reasons which demonstrate the necessity of public worship ; for sacrifice is the best public act of homage that a moral body can render to the Divinity. The people of all past ages offered sacrifice ; and this universal *consensus* is a proof that what we here lay down is in accordance with the dictates of reason.

539. **Divisions of Prayer.**—Another act of worship is prayer. In general, it signifies a petition humbly made to another, to obtain from him some desired good. When such a petition is directed to God, it is commonly termed a prayer. If made only in the mind, it is called mental prayer. This kind of prayer is admissible, because, as God knows even our most secret thoughts, there is no necessity of expressing them outwardly. If the petition is made with both mind and tongue, it is called vocal prayer.

We may here remark that, though a mental petition made to God is always a form of prayer, such a petition, vocally made, may not be prayer at all, but an act of irreverence to God ; for, to pray vocally with deliberate and wilful distraction, or to pronounce words of supplication which come not from the mind and heart is an offence against God. It is in fact an act of hypocrisy,

which is the most abominable of all kinds of deceit ; for it is a kind of presumption on the part of the suppliant that he can cause God to believe what he does not mean to express. Prayer may be generally defined :—“ A petition in which we raise our minds and hearts to God.”

When we pray well, we undoubtedly perform an act of religion ; because we thereby direct our souls immediately to God, in the full belief that He, being infinitely good, holy, and powerful, will unhesitatingly grant our petition, if what we ask be useful and good for us. **Canticles**, and the singing of the Divine praises, having the same end, and manifesting the same thoughts and feelings as prayer, are likewise forms of supplication. Prayer, like sacrifice, may be either private or public.

540. **The duty of Praying either Mentally, or Vocally.**—The reasons which have been adduced to prove that religious worship is a duty are also applicable in demonstrating the duty of prayer. This obligation, however, proceeds directly from the need which all have of divine aid for the better fulfilment of their duties, and for the attainment of what they desire. God wills us to do good and to fulfil our duty. We are all conscious of our weakness, but, at the same time, we are cognizant of the means granted to us by God for overcoming them. By not imploring His aid, we either deny His power to help us, which is opposed to the esteem and honour due to Him ; or we care not to have His assistance, which is repugnant to our dependence on Him. Therefore, we are bound to seek His help. This we do by prayer; and our obligation to pray is either greater or less, in proportion to the diversity of our needs. It may be urged that, because God already knows our necessities, prayer is useless. God, indeed, knows all our wants, but it is His Will, that we also should know them, and implore His aid to overcome them. This divine disposition is in harmony with the end of our creation—viz., the manifestation of God’s glory, and prayer is the most

beautiful confession of our own moral weakness, and of the goodness, power, and majesty of God.

Society cannot worship God by mental prayer, as can a private individual. In the social body, prayer must be external, vocal, and public; because internal acts alone are always private, and he who holds office in society cannot fulfil that office by merely internal acts performed in the name of the multitude. As, therefore, the social body has its own wants and duties, it is likewise under the necessity of imploring the Divine aid. It cannot, however, seek this aid by internal acts; hence, it must make use of external and public vocal prayer. Thus, prayer belongs to the public worship due to God.

There is no act of an intelligent being more noble or useful than prayer. It is an intercourse between God and His creatures. Such communication or intercourse is pleasing to the Divinity; and, consequently, it must be profitable to men, when, by the fulfilment of their duties, they abide in Him.

541. Oaths.—The duties of men towards God, as expounded above, are all innate duties. In addition to these, there are others that are acquired, some of which are oaths and vows.

By an oath, we invoke God to witness the truth of what we affirm, and call upon Him to punish us, if what we say is false. If, in taking an oath, we use the name of God, the invocation is explicit. If, on the other hand, we make use of the name of any created being, or sacred thing, it is implicit. Oaths are said to be assulatory, if taken to confirm the truth of what one asserts; and promissory, if taken to assure another of the fulfilment of what one promises.

542. Conditions requisite for rendering an Oath lawful.—An oath is, in its nature, a religious act, because it directs immediately to God both the man who uses it, and the man who receives it; and because it involves on each party the recognition and confession of

God's truth and justice. Therefore, an oath is, in its essence, good and lawful.

Three qualities are needed to render an oath lawful —viz., Truth, Justice, and Judgment. By its truth, we mean that what we affirm or promise is really true. By its Justice, we signify that what we say is honest and impartial. And, by its judiciousness, or the judgment used in taking it, we mean the prudence or forethought required in a declaration on oath.

Whenever the first or second quality is absent, the oath is morally bad; because, in either case, an offence is given to God, inasmuch as He is called upon to witness and confirm error and falsehood. If, however, only the third condition were wanting, the oath would not be morally bad, but it might be less reverentially considered, which ought to be avoided.

Although to the obligation of fidelity, a promissory oath adds the duty of religion, yet the latter follows the former, just as an accessory part follows the principal. Hence, all that could destroy the validity of the promise, would likewise destroy the validity of the oath. The oath becomes, so to speak, a sacred promise, but, in its nature and effects, it remains unchanged.

543. **Perjury.**—By violating the first of the three conditions necessary for the lawfulness of an oath, we become guilty of perjury—*i.e.*, of swearing falsely. No testimony is needed for the condemnation either of perjury or of the perjurer, for it is at once evident that a false oath is contrary to reason and justice.

544. **Vows.**—A promise made to God becomes sacred, and it is generally termed a vow. It may, therefore, be defined:—"A deliberate promise made to God to do a possible and better good, with the intention of fulfilling the promise."

A vow is indubitably an act of religion; for not only is it a promise to God, but an act more directly manifesting our dependence on God, and our duty towards Him.

Hence, the obligation resulting therefrom is a religious one.

The duty of fulfilling a promise, whether sacred or not, always proceeds from human dispositions, or the will of man. Hence, the duty follows the conditions of an obligation produced by human positive laws, in reference to the gravity of its matter, and the reason for suspending it.

As a vow is an act of religion, and a new burden, which man, for the love of His Creator, imposes upon himself, it ought to be made in a spirit of filial piety, and with sufficient judgment, and seriousness of purpose. Thus, from the preceding definition we may gather the conditions requisite for the validity of a vow.

(a) It must be made, not through unjust fear aroused by necessity, &c., but with full deliberation. (b) What is promised must be not only absolutely, but morally, possible. (c) It must be made in reference to something good; because to promise God anything opposed to the order established by Him would constitute an offence against Him. (d) What is promised must be of a better nature; for if, by our promising something for the love of God, we were unable to perform a better good commanded by Him, we should be acting against the order established.

If even one of the above conditions is wanting in a vow, it is rendered null and void; because it is supposed that God would not accept such a promise.

In conclusion, whenever the necessary conditions are inherent in a vow, it is valid, whether its matter be already commanded by God, or not. And be it observed that if, by making vows, we render homage to God, by not keeping them we offend Him.

BOOK V.



*INDIRECT DUTIES OF MAN
TOWARDS ANIMALS.*

CHAPTER I.

PROLEGOMENA.

545. The world, as the poet says, may be considered as a vast mansion, whereinto man has been admitted, to enjoy, to admire, and to be grateful. The first desires of savage nature are merely to gratify the importunities of sensual appetite, thereby leading men to neglect the contemplation of things, and thus to be barely satisfied with their enjoyment. The beauties of Nature and the marvels of creation possess but few charms for a man who is preoccupied in appeasing his daily wants, and who is anxious only for a precarious subsistence.

On the other hand, Nature is compared to a magnificent museum, replete with objects of wonder and surprise, and established chiefly for man's happiness and entertainment. Therein, people carefully examine everything, from the minutest insect to the most gigantic animal ; and when their limited powers can no longer continue the investigation, they launch their imagination on an ocean of new inquiries. Nothing, therefore, can be more august and impressive than the idea formed of the universe around them by their reason and imagination.

When we contemplate the face of the earth, we perceive that it is covered with living beings. Every portion of the globe is full of animal life. The atmosphere around us contains everything adapted for maintaining life. Light and heat bring organic bodies into existence. The air, to the depth of several miles, is continually making an interchange of its particles with those of living things. And the water, which incessantly passes from the sea to the clouds, and from the clouds to the sea, is

another element essential to life. Life is one of those mysterious and secondary causes, to which we assign a certain series of observed phenomena, possessing mutual relations, and succeeding each other in regular order.

All animate beings, whatever be the differences prevailing amongst them, possess one common character. They are all generated by bodies similar to themselves, and they increase in growth and strength by consuming and assimilating to their own substance surrounding particles of substance. All are formed of different parts, which we call organs; hence, they derive the appellation of organic bodies. These organs, united together, form a whole, which, in respect to form, duration, and the phenomena it exhibits, is a perfect unity; and, as not one of these properties can be abstracted from the rest without the annihilation of the whole, a living being is called an individual. All resist the laws of affinity. Absorbing something from without, and transforming it within, they produce other beings similar to themselves, by the same action whereby they themselves were produced. The period of their existence varies with each individual; but, in a wild state of Nature, those of the same species live almost the same length of time. Thus, every animate being forms, by its unity, a miniature world within itself; nevertheless, this little world cannot remain isolated from the universe. In a living body there is always a bond of mutual dependence among its organs,—a universal concourse and agreement of actions. Every part corresponds with the whole, and the whole with the universe.

Animals are of a complex nature, provided with internal organs liable to ailments, and endowed with sense and spontaneous motion. As they possess brains, nerves, muscles, blood, &c., they enjoy the higher power of sensation. Among the indefinitely different productions which the universe contains, animals hold the next rank to man, on account of the finer formation of their parts,

or by reason of their superior power. Most of them can, by a change of place, oblige Nature to furnish them with such nourishment as is most suitable and agreeable to their state; and they possess the means of protection from injury, either in their strength, courage, swiftness, or cunning.

CHAPTER II.

CLASSIFICATION OF ANIMALS.

546. The classification of animals belongs rather to the naturalist than to the moral philosopher. We shall, therefore, allude to this classification, merely in a transitory manner. In general, animated nature may be reduced to four species, viz.—**Quadrupeds, Birds, Fishes, and Insects.** These appear to be, for the most part, clearly distinguished from one another; but, in some instances, it is difficult to discern whether the object of our curiosity and examination is a bird or a quadruped,—a fish or an insect. Nature is varied by imperceptible gradations. Hence, no absolute line can be drawn between any two classes of her productions, nor can any definition be given to comprehend them all. Nevertheless, the distinction between these classes is sufficiently well marked, and their encroachments on one another are very rare.

In the classification of quadrupeds, the simplest method is to observe their most striking resemblances; and, where these do not force a similitude, to describe the animal as a solitary species.

However, in immediate view of our own work, we may consider animals as either wild or domestic. Among the vast variety of wild animals, we find but comparatively few that are of any service to man. Of the many tribes of insects, for instance, what a small

number can be said to be of immediate use to mankind ! whilst, on the other hand, how many are injurious ! In some countries, the light of day is obscured by the presence of myriads of these minute beings ; they penetrate into the most hidden recesses ; and the richest landscapes seem to invite their insatiable rapacity. Insects are injurious and troublesome to man, chiefly on account of their numbers ; but most of the larger kinds of wild animals are, by reason of their ferocity and courage, even more pernicious than insects. Others again there are which are neither hurtful nor useful to man. They seem only to occupy a space which more beneficial creatures might possess. In consequence of the ravages and depredations of these wild and ferocious animals, human ingenuity has ever been exercised in aiming at their extinction. In doing so, man has acted in accordance with reason, and his action cannot be condemned. We will, therefore, take cognizance of domestic animals only—*i.e.*, of such as are under the control and direct dominion of man. These may be considered as the servants of man. They seem to be desirous of obeying their masters' will, and, so to speak, they fulfil the duties of their station with docility, patience, attention, and resignation, being content to labour, and to be satisfied with their due subsistence.

Almost all domestic animals bear strong marks of their subservience to man. Their varieties in colour, in the fineness and length of their hair, in the shape of their ears, &c., seem to have arisen from a long period of subjection to mankind. What numerous varieties exist in the ordinary breeds of horses, cattle, dogs, &c. ! The principal differences have been effected by some special adaptation of food, treatment, labour, or climate, and to such an extent that Nature appears to have laid aside her original designs, and that the same animal, in some instances, bears hardly any resemblance to its original ancestors in the wild woods.

CHAPTER III.

FACULTIES OF ANIMALS.

547. Most animals bear more or less striking indications of mental capacity. In the higher grades of the animal kingdom, this mental life rises to the possession of a quasi-intellect. In the lower orders, it appears as instinct, confined to only a few operations. For the purpose of communication with the outer world, vertebrated animals are provided with a nervous system in connection with a central brain. It is styled the cerebral nervous system, as distinguished from the ganglionic nervous system of the lower animals, the latter system serving the same purpose as the former, though in a less degree, as we descend the scale. The impressions from without are immediately received by the organs of sense; and these become more numerous and complex the higher the animal stands in the scale. Among the highest, five senses are usually distinguished, which are variously developed in the different kinds and species of animals, but in none so harmoniously as in man.

548. Animals are void of Reason.—There are some men, with a leaning towards atheistic principles, who would have us believe that animals possess reasoning power, though in an inferior degree to that bestowed on man. We deem it advisable to demolish at once this absurd theory, in order that, while we treat of the indirect duties of man towards animals, greater absurdities may not arise.

In the first place, let us explain what is meant by reason. By reason, we understand that faculty which

draws inferences from facts and premises ; which apprehends the relation between cause and effect ; and which devises means towards ends. It signifies the conscious exercise of remembrance, reflection, and forethought. It forms the cognitive and perceptive faculties, and the logical understanding. It is the intuitive or direct apprehension of mental or moral truth, independently of argumentative processes, or deductions. It judges, *a priori*, of the conclusions of the logical understanding. Again, when we say—"a man reasons,"—we mean that he exercises his rational faculty to deduce inferences or conclusions from facts or premises ; that he thinks consecutively ; that he considers a subject in its relation of antecedent or consequent to other subjects ; and that, by a mutual communication of ideas, thoughts, or arguments, he investigates, discusses, explains, &c.

Now, in the whole of the animal kingdom, there is not a single specimen possessing even a spark of reason. In the monkey tribe there are found certain species remarkable for their acuteness. The gorilla and the chimpanzee display a great amount of intelligence, and, in organization and form of structure, as well as in intellectual capacity, they most resemble man ; but not one of their acts can truly be said to be the result of any abstract mental quality. There exists no positive evidence of a purely abstract mental operation. It cannot be affirmed, or proved, that an animal's mental faculty, whatever it may be, is capable of performing the functions of the mind, without the presence of some sensible object acting as an aid to its memory, by the mechanical power of association. There is nothing to warrant the belief that either the gorilla, or the chimpanzee, can, by any effort of will, charge its memory to present to it any such thing as the idea of a past event, without either the presence, sight, touch, or sound of some material substance with which that event has been previously, and, for the most part, repeatedly associated. Nay, even

when this is the case, the power of the mental faculty is very limited, and the action is performed without any motive as to the consequence,—the knowledge of the operation appearing only to keep pace with the process. This cannot be called *reasoning*, as it falls infinitely short of any such thing. What mental operation is there so weak as to require something to support it, being neither self-instituted, nor self-sustained? The mind of man, on the contrary, can think and reason without the presence or sight of any sensible object. Man can cast his thoughts in any direction. Apart from the presence of any material body whatever, he can reflect upon the past, or direct his thoughts to the future; but the animal mind is incapable of doing either. Man possesses the power of controlling his memory in an abstract manner: the brute is gifted with no such power; it must have something made evident to its external senses.

If brutes were endowed with reason, they, like men, would be capable of reflection and forethought, and, if so, of moral as well as of physical improvement and perfection. But, as regards this matter, the world, even unto this day, witnesses the contrary. Therefore, brutes cannot be reasonable beings. Verily, the industrious bees have, from the creation of the world, constructed abodes of great ingenuity, upon rules deduced from the highest geometrical principles, and, nevertheless, they understand nothing of geometry. Again: consider the bird in its various operations. How unvaried is its choice of the matter employed in the structure of its nest. Its selection of a situation changes not, nor is any additional improvement in its abode ever introduced. To all animals Nature has given specific directions as to the means to be employed for the obtaining of lodging and nourishment, but they have no rational conception of the end for which those means are to be used. If animals be rational beings, we may expect them to give signs of progress, to produce inventions, to establish codes and moral institutions, to

treat of ethics, metaphysics, astronomy, and chemistry, to compile histories, and to carry on discussions about good and evil, rights and duties, &c. Now, none of these things are done by animals, and yet they are all the effects of a reasoning power.—Ergo—

549. **The Operations of Animals result from Instinct.**—By instinct, we mean that propensity in animals which directs and impels them to perform certain actions for the preservation of their species, at the fittest time, and with the greatest perfection, independently of knowledge, without any experience of their own, and apart from the training or teaching of others. In the animal kingdom, instinct is the governing principle, and the substitute for reason. Among the inferior tribes of creation, all actions are under the control of instinct; and though its operations are more precise and more perfect than those of reason, yet, since they are the results of a power which, to a very great degree, deprives the animal of both will and understanding, they are but proofs that, of all created beings, man is the noblest. They show that neither the nature, nor the destiny of an animal has been considered sufficiently exalted to be entrusted with free agency in matters of selection. In very truth, the brute has no choice in concerns which to itself are of the utmost importance. It yields a blind obedience to its instinctive impulses. Its enjoyments are merely physical. The pleasures of knowledge, of imagination, of progress, and of discovery, are entirely withheld from it. Instinct teaches an animal how and where to seek the food best suited to its constitution. Instinct impels it to bestow such care in cherishing its young ones as is necessary to bring them to maturity, or, at least, until they can provide for their own wants. And, in fine, instinct tells them how to defend both themselves and their offspring from danger, or attack. These purposes being answered, the operations of instinct proceed no further, and, beyond them, animals have no

desire or motive, if, indeed, they are influenced by any motive at all.

It may here be opportune and convenient to explain the error of those who contend for the identity of reason and instinct, and who believe that the actions of animals are the results of invention and experience. In their investigation of instinct, they have been deceived by an efficient cause, simulating a final cause. The defect in their reasoning has arisen in consequence of observing, in the instinctive operations of animals, the adaptation of means to a relative end, through the assumption of a deliberate purpose. To this freedom or choice in action and purpose, the word instinct cannot, in any appropriate sense, be applied. To justify and explain its introduction, one must have recourse to other and higher faculties than those manifested in the operations of instinct. If we examine the distinguishing character of human actions, it is evident that there is in them, as in the actions of brutes, a selection or an appropriation of means to ends; but with this great disparity, that, in man's actions, such appropriation is made to various purposes, while, in those of animals, it is made only according to circumstances, or different incidents.

Moreover, we may notice that, though man is often guided, like the lower animals, by natural instinct, yet his instincts are elevated and ennobled by the moral ends and purposes of his being. He was not destined to be the slave of mere impulse. His instincts are generally accompanied and modified by the co-operation of his will, his moral feeling, and his reason, whereby he is enabled to define and determine that which is universal, and necessary for the fixing of laws and principles, whether speculative or practical, and to contemplate a final end or purpose. His intelligent will, having, under the light and guidance of reason, a self-conscious purpose, seems best to account for that progressiveness of the human race, which so clearly marks an insur-

mountable distinction between mankind and the brute creation.

550. **Animals may possess some Physical Properties in a higher degree than Man.**—Man, the lord of creation, presents, from almost every point of view, some marks of superiority or ascendancy over all living tribes. If he is not endowed with the same amount of physical strength as some beasts, yet, he finds little or no difficulty in obtaining the mastership over all, or in maintaining rule over them. This is effected by his wisdom, which is an attribute of his mind, and which distinguishes him from all animate beings. Though his frame has many things in common with the structure of vertebrated animals, yet the connexion, the attitude, and the form of his bones, present differences which serve to indicate in him a greater nobility, as well as a greater complexity of mechanism, than in animals.

The great distinguishing organ of the human body is the brain. The degree of perfection, and the size which it attains in man, gradually, though not quite regularly, diminish, as we descend in the scale of beings, until, at last, they become lost altogether, and, along with their disappearance, every trace of intelligence is effaced. Instinct, therefore, exists, only when so much brain or nervous matter is apportioned to certain animals, as is necessary to render them useful to man. Hence, the elephant, the horse, the dog, &c., have a sufficient quantity of cerebral substance to render them capable of being trained to perform various actions; but their education cannot be extended beyond certain limits; and these limits determine them for certain useful purposes.

Moreover, some portion of brain, or nervous system is necessary for animals, since, without it, they could neither fulfil the functions assigned them, nor be of much use to man. Sensation is an attribute of nerves having its seat in the nervous system. In the acuteness

of some sensitive powers, the inferior tribes often surpass man. For instance, in keenness and extent of vision, man cannot rival the eagle. Certain species of the canine tribe are superior to man in the sensitiveness of their olfactory powers. Again, man appears to have no nerve so keenly sensitive as that of the ear of an owl, which, by means of vibrations that pass through the air, can receive an impression of the slightest sound, made by a tiny mouse in some remote corner of a barn. There are other animals, moreover, that possess nerves more sensitive to touch, than any found in mankind.

We may, therefore, safely conclude that some animals possess special physical faculties in a higher degree of development than man; and yet, the superiority of man over animals is neither lost, nor diminished.

CHAPTER IV.

ABSURD SYSTEMS OF ANCIENT PHILOSOPHERS.

551. Laying aside the ridiculous definitions of animals given by certain ancient philosophers, some of whom styled them non-risible beings, and others, mute beings,—we know that the Peripatetics allowed them a sensitive power, while denying them a rational one; and that the Platonists allowed them reason and understanding, but in a degree less pure and refined than that bestowed on man. Lactantius made only one distinction between man and animals, and it consisted in an absence of religion in the latter. Descartes maintained that brutes are merely inanimate machines, absolutely destitute not only of reason, but of all thought and perception, and that all their actions result from the exquisite mechanism of their bodies. Others, who rejected the Cartesian hypothesis, maintained that brutes are endowed with a soul essentially different from that of man. To this

soul some have allowed immortality, while others have denied it. Lastly, there are many who, in lengthy discussions and wordy proofs, most seriously uphold that brutes are animated by evil spirits or demons.

We care not to refute the above foolish assertions. They are all based upon false principles ; and, if the principles be false, the conclusions must necessarily be likewise false. Nevertheless, it may be profitable to mention, *en passant*, that brutes are not mere machines. To a certain degree, they are endowed with sensation and consciousness ; and there is, undoubtedly, the same evidence to prove the sensibility of brutes, as there is to demonstrate that of mankind. They shun pain, they seek for pleasure, and they express, in no equivocal manner, the happiness they derive from the enjoyment of certain things. Therefore, as we are conscious that similar effects are, by a sentient principle, produced in ourselves, so we may conclude that, in brutes, they are likewise derived from a principle of sensation. This fact is rendered still more clear, when we consider that, in no other part of Nature, does there exist any species of mechanism that produces effects similar to those just mentioned : and, not until we know of its existence in some part of Nature, have we any right to suppose that it exists at all.

As regards those opponents of the Cartesian scheme, who maintain that brutes are endowed with the faculty of reason, we need only remember what has already been said regarding the absence of reason in brutes. At the same time, we admit that, in addition to the principle of sensation, they enjoy the principle of a quasi-intelligent reflective faculty ; but this can never bear comparison even with the most limited intellect of the meanest savage. One remarkable proof of this may be found in considering the use of the element, fire. Even the most savage nations have known how to render this element subservient to their own purposes : or, if some have been

found ignorant of its existence, they have readily learned its use, on seeing it utilized by others. Now, although numbers of the brute creation delight in warmth, and although they have daily opportunities of seeing how fire is supplied with fuel, and thereby preserved, yet, it has never been known that any one of them ever attempted either to produce, or to preserve a fire. This fact alone is a strong proof of the absence of rationality in animals : and, on no other supposition can it be accounted for, than that the soul of the sentient principle in brutes is, in some way or other, inferior, in its nature, to that of man : but, yet, the soul of an animal is a sentient principle capable of perception.

The opinion of those who maintain that the souls of animals are devils is thoroughly foolish and absurd. We will refute it in a few simple words. Beasts, though remarkably mischievous, are not completely so ; for, in many instances, they are capable of gratitude and affection, which, in devils, is an impossibility. The very same passions that exist in brutes, exist likewise in human nature ; and, if we choose, we may, from the existence of those passions, and from the ascendancy exercised by them over mankind, justly argue that the souls of men are devils, as well as those of brutes. All that can be reasonably inferred from the greater prevalence of the indignant passions amongst brutes is, that animals possess less rationality than men : and, accordingly, we see that, among savages, who exercise their reason less than other men, almost every species of barbarity is practised without its being deemed a crime.

552. **Are the Souls of Animals Mortal or Immortal ?—Opinion I.** We will first consider the doctrine of those philosophers who have taught that the souls of brutes are mortal. If we examine what life is, and what are its divisions, we at once perceive the truth of their statement, and the conclusiveness of their argumentation. We know that life means action ;

and we also know that this action may be purely intellectual, as in the angels ; that it may be intellectual and sensitive, as in man ; that it may be purely sensitive, as in animals bereft of intelligence ; and, lastly, that it may be simply vegetative, as in plants and herbs. Now, by way of analogy, we could never admit an intrinsic relation of the above-mentioned kinds of life among themselves. We could not say that either vegetative, or sensitive life is to be found in angels. For the same reason, we could not say that sensitive life is the same as rational or intellectual life. Consequently, among such kinds of life, there must be an indefinite disparity, and, if so, it is clear that animals cannot be immortal, because they are not possessed of intellectual life, which alone can be said to be immortal.

The intellectual life is of an immortal character, because it is not the effect or production of matter, as matter ; otherwise, it could never be able to think, to reason, or to foresee : and, if it is independent of matter, it cannot be destroyed when the matter, to which the intellectual life adheres, is annihilated. Now, we have said, that animals have no intellectual, but only sensitive life. Sensitive life cannot be immortal, because it is the effect of matter ; hence, when the matter is destroyed, the sensitive life must also come to an end. Therefore, the life of brutes must terminate with the decay of their bodies, to which the sensitive life adheres.

If we admit that sensitive life is immortal, we may, with the same amount of reason, maintain the theory that the vegetative life is also immortal. But such a theory is absurd. Therefore, to admit that brutes are immortal is likewise absurd.

Moreover, the idea of immortality arises from the knowledge of God, of good and evil, of right and wrong, and from an irresistible propensity to attain perfect happiness. But, as no brute creature has ever entertained any idea of right or wrong, of good or evil, or of

perfect felicity, there exists no end which could render them immortal. As brutes possess no idea of God, they could not glorify Him. If they are provided with plenty of food and drink, they are perfectly happy. No other conception, thought, or desire, troubles them, for they have attained the end of their existence. It is not so with man. In him resides an intellectual life, which alone is capable of yearning after that perfect good, which, in this world, is unattainable.

Lastly, in order to show that the souls of brutes are immortal, one must prove that they, like men, are possessed of intellectual life. But we have already proved that they are void of reason; therefore, they cannot be immortal.

553. Opinion II.—**The Souls of Animals are Immortal.**—There are other philosophers who, holding an opinion contrary to the precedent one, demonstrate, by means of the following argument, that the souls of animals are immortal.

Animals feel, move, and are conscious, each of its individual existence. Hence, it is an undeniable fact that they possess a soul. Now, the *principium quo* of an animal's life cannot but be a simple substance, whereby it conceives the idea or perception of some previous sensation, whenever it comes in contact with the same object. But the efficient cause of these facts cannot be a mere noun, or an abstract idea, or a mode of existing without a substance, or a vague force. On the contrary, it must be a simple substance, which, as matter could never be conscious of its existence and possess self-motion, cannot be material. When once it is admitted that the soul of a brute is a simple substance, right reason teaches us that it cannot derive its origin from a material substance; consequently, its origin must necessarily be derived by way of creation, this being the only mode whereby every simple substance, that is not eternal, is originated. Therefore, the souls of brutes,

being simple substances, cannot have their existence otherwise than by way of creation in the will of God. This being once admitted, no further argumentation is needed to prove their immortality, since it is a fact admitted by all philosophers that simple substances cannot naturally cease to exist. The soul of a brute will indeed cease to be physically united to the parts composing the individual animal, but, inasmuch as it is a simple substance, it will continue to exist, with a constant perception of its existence, even after the death of the individual brute creature. In one word, it is immortal.

554. **Our own Opinion.**—We candidly confess that we know not whether the souls of brutes are mortal, or immortal. We see no reason, *pro* or *contra*, existing in the will of God, to demand either their preservation, or their annihilation. We simply say that, when their natural life is ended, God will dispose of them in accordance with His own Will.

555. **The Aim of this Treatise on Animals.**—Man holds perfect dominion over all created beings, and consequently over animals. There are some men who, by not distinguishing between vegetative and sensitive life, look upon the latter in much the same light as the former. But if, by making an incision in a tree, no intrinsic injury is necessarily done to it, it does not follow that an animal would in no way suffer by the infliction of a wound, because animals are gifted with a life different from that of plants and trees, and are, moreover, subject to suffering and intrinsic injury. Hence, creatures endowed with sensitive life must not be treated in the same way as things which possess only vegetative life. Knowing, as we do, the wretched passions of the human mind and heart, and seeing the countless abuses to which such passions lead mankind, it is our intention to treat of the duties incumbent upon men towards animals, and we lay down this axiom:—"Man

refrain from cruelty to animals, for they are SENSITIVE beings."

Benevolence towards animals is at once a result and a proof of extending civilization. It is the extension to its just limits of the principle of sympathy which first appears when the savage ceases to think exclusively of himself, and learns to identify himself with his tribe. It is this principle of sympathy, carried to a further degree, which, under the influence of Christianity, unites in one family all the races and tribes of man. By cultivating the faculty of sympathy, and by considering that sensibility to pain is common to both men and animals, we soon perceive that to inflict needless and unjust pain upon the latter, is to sin against one's own nature, and, therefore, to commit a crime.

This doctrine ought to be specially inculcated in children, for, although cruelty to beasts of burden and to domestic animals, oftentimes arises from cupidity, yet children frequently inflict torture upon them from mere wantonness and ignorance. In this matter, therefore, it is evident that instruction of the mind will tend to improvement of the heart. We may, however, remark that the mere extinction of the life of an animal does not necessarily constitute cruelty. There may, indeed, be more cruelty inflicted by prolonging than by taking away the life of a brute beast. It is the infliction of needless pain or restraint that constitutes the essence of cruelty to animals.

CHAPTER V.

INDIRECT DUTIES OF MEN TOWARDS ANIMALS.

556. Strictly speaking, man, on account of his dominion over animals, has no indirect duties towards them. Still, as this dominion is not of an absolute but a relative character, we deem it expedient to maintain

and demonstrate the following theory—viz., that man, as such, has indirect duties towards animals, and that he possesses direct rights over them.

557. It is **Natural for Man to Love Animals.**—Man must necessarily desire that which is beautiful, agreeable, and useful, either in itself, or on account of the advantages he may derive from such an object. Is it not the perception of the beautiful in art, Nature, and morals, that distinguishes the social and civilized man from the savage and the barbarian? All the arts and sciences owe their worth and excellence almost entirely to this love of the beautiful and the perfect, implanted in the breast of man. Beauty and grace are undoubtedly united by nature itself to utility; and man's nature is so constituted as to derive a pure pleasure from the contemplation of the beautiful and the useful. This pleasure is precisely similar to that which arises from the contemplation of virtue. For man, as a reasonable being, it is as imperatively necessary, as food, clothing, and a place of abode are necessary for him as an animal. We here make this distinction regarding man, because, as an animal, and with reference to physical wants, instincts, and bodily functions, he possesses much in common with all other animals. Man, however, has an innate appreciation of beauty and order. His heart is disposed to social communication; it can be moved to compassion and sympathy; and it is influenced by an infinite variety of pleasing objects. This combination of peculiarities separates man essentially from the other animals, makes him their lord and master, and gradually leads him to the almost illimitable height of his capacity, so that at length he is enabled in some degree to remodel Nature itself. Now, if we examine any of the animals in existence, what do we find in them but beauty, generally combined with utility? This being so, it is evident that man's very nature should prompt him to love animals.

558. It is an indirect Duty of Man to Love Animals.

—From the fact that it is natural for man to love animals, we may at once conclude that it is his duty to love them. Nevertheless, we will confirm our statement by reason. Since God is purely perfection, He could not call into existence anything but what, in its order, must be perfect, and adapted to some special good. Animals were created by God for man's utility. No matter how defective or deformed they may appear, or what peculiar and unaccountable habits they may possess, it is unquestionable that they exist for some good end in reference to man. It is owing to man's ignorance that the utility and goodness of such animals as are considered pernicious cannot be discovered. Hence, since animals, as well as rational beings, are the creatures of God, we should respect, love, and admire them as the work of His hands. Moreover, it is willed by God that we should "keep the order established in all things," and no man can claim authority to uphold the contrary in reference to animals. Therefore, it is an indirect duty on the part of man to respect animals in the order in which God has placed them.

Again, God created animals to be under the dominion of man and for his service. Now, as they are helpless, dumb creatures, irrational, and guided only by instinct, it behoves man, who is gifted with reason, to humanely guide, direct, and assist them in their necessities. The neglect of this duty would constitute an act of disobedience against the Divine command, which bids us observe and maintain the order established by God, whose Will is, that animals should serve man, and that man should supply their wants.

In every part of the globe there are animals that can be so domesticated and trained as to be able to render special and important services to man. Under his mastership and guidance they may become docile, affectionate, obedient, and useful, and, by kind and

considerate treatment, they may be rendered his faithful companions. If tormented or ill-used, animals are likely to become obstinate, infuriated, and dangerous ; therefore, in order that they may be made submissive, obedient, and faithful, it is necessary for man to treat them kindly ; for there are many laborious and difficult undertakings which, without their aid, could hardly be accomplished by man.

Lastly, by bestowing kindness upon irrational beings, man is led to treat his fellow-creatures with respect and beneficence ; and, by learning to appreciate the works of the Creator, man becomes more pleasing and acceptable in His sight. There is implanted in the human heart a sentiment of mercy, commiseration, and loving sympathy, extending even to the brute creation, and, the more noble the mind is, the more enlarged does that sentiment become, prompting man ever *To do unto others as he would wish to be done by*. If a horse or a dog be struck, every outward manifestation of suffering is no less clearly evinced by it, than by man when he himself receives a blow or a stripe. But if we play with domesticated animals, caress them, or offer them food, the gratification which they experience is expressed with equal clearness. This fact, then, ought effectually to move us to treat them with kindness rather than with severity.

In short, we are indirectly obliged to love animals :—first, because they are creatures of God ; secondly, because they need our help ; thirdly, because they are useful to us, and deserve our gratitude ; and, fourthly, because our kindness towards them increases within us a feeling of sympathy and love for our fellow-men, and renders us more pleasing to the Divine Creator.

559. **Excessive Love for Animals is against Reason.**—It is necessary to enter somewhat fully into the proof of this statement, for we live in an age in which many persons almost excite disgust in others by the foolish

affection which they lavish on some animals. They cannot dine, if their pet is not at table ; they cannot sleep, if it is not near them ; they cannot take a walk without being accompanied by their mute darling ; nay, they will even carry it in their arms, and fondle it as though it were a child. Such love as this must be denounced as wrong, and contrary to the dictates of reason.

Man alone possesses reason, and it is by the proper exercise of it that he is raised above all created beings. The absence of this intellectual power in animals places them all infinitely beneath man ; and, as the distance between intellectual and purely sensitive beings is infinite, animals should never be considered on an equality with rational beings. To lavish excessive love on irrational creatures is to treat them even more kindly than one's fellow-men. Reason forbids this.

Too much regard for animals may sometimes cause even civilized countries to fall into ridiculous excesses, and to become the laughing-stock of other nations. It is painful to contemplate the popular excitement and enthusiasm which was recently roused amongst thousands of people in this country on the occasion of the deportation of a celebrated elephant by a travelling showman. Before its departure, vast crowds of people visited the huge animal, regaled it with dainties, and even adorned it with bouquets and wreaths of flowers. The daily papers, for the most part, became victims to the contagion, and ventured, forsooth, to eulogize the high civilization that could prompt the bestowal of these tributes on an elephant. What, pray, could the huge brute comprehend of so many wasted tokens of attachment ? What gratitude could it feel for the amount of good gold thus expended on its comforts ? How could it appreciate the notoriety thus given to it ? As philosophers we must say that our civilization would have been worthy of eulogy, if the money squandered on the elephant had been devoted to relieving the necessities of a suffer-

ing people ; and we denounce, as against reason, that excessive display of attachment, if not of devotion, to an irrational being.

To like an animal on account of its beauty, strength, utility, and other admirable physical qualities, is quite consistent with reason ; but to love it with an affection which is but rarely shown to human beings must be condemned as folly and contrary to reason. Animals, being irrational, can never understand the intrinsic meaning or force of rational or moral love. This should be extended to rational beings only, as they alone can comprehend its intrinsic essence.

560. **The Duty of Feeding Animals.**—In treating of this matter, we speak only of domesticated animals, because the wild beasts of the forest and plain are by Nature endowed with the power and means of providing their own food. Animals are sentient beings, and food is essentially necessary for the maintenance of their vitality. When deprived of food, they, like human beings, suffer the pangs of hunger and thirst. Hence arises the duty, incumbent on man, of providing with necessary nutrition the animals under his care, especially if they are of great service to him. To act against the order established by God in Nature is wrong ; hence the injustice of those who, being unable to provide food even for themselves, keep animals to share with them the want of necessary support.

Whilst thus proving man's duty to feed the animals under his charge, we must, on the other hand, denounce the extravagance of such persons as nourish their domestic pets with expensive delicacies. For the most part, exquisite dainties are injurious rather than beneficial to animals ; in no case are they necessary for them, or duly appreciated by them. Again, therefore, we say that, were certain people to bestow upon human beings some portion at least of the delicacies they provide for their dumb darlings, their kindness would meet with due

appreciation, and many a poor fellow-creature thus relieved would express his feelings of gratitude, and raise his prayers to the Almighty for the happiness and prosperity of his benefactors.

561. **Animals must not be ill-treated.**—Animals are sensitive beings, and are therefore subject to feelings of pleasure and pain. Hence it is man's duty to avoid inflicting upon them unmerited bodily punishment, unless, indeed, it be necessary to do so for their preservation, or for reducing them to order. Under the above heading, we must, therefore, denounce, as inhuman and cruel on the part of man, every attempt to work such animals as are unfit for labour, to overload, beat, kick, or stab animals, whether at work or at rest, to injure them for the simple purpose of identification, to kill them improperly, or to inflict upon them any of the numerous other kinds of torture, which, though practised amongst barbarians, are to be execrated by civilized nations.

CHAPTER VI.

PREVENTION OF CRUELTY TO ANIMALS.

562. To England belongs the distinguished honour of having been the first nation in the world to establish laws for the prevention of cruelty to animals. Prior to the enactment of the statute intituled “An Act to Prevent the Cruel and Improper Treatment of Cattle” (July, 1822), the treatment of animals in this country was, in a great measure, inhuman. Whether from man's ignorance, thoughtlessness, heedlessness, or wanton brutality, animals were subjected to much unnecessary pain and torture, and their condition failed, for the most part, to excite the commiseration of the public. In the highways and streets, was exhibited a deplorable, yet unconcealed, disregard for the bodily sufferings of poor,

dumb creatures. Festering sores, excruciating lameness, and tottering infirmity called forth none of the modern devices for the evasion of public reprobation. This revolting treatment, however, prevailed to such an extent, that, at length, a Society was formed to assemble and unite together the friends of dumb animal creatures, for the suppression of the cruelty so wantonly inflicted upon them. By unflagging zeal and unabated energy, the founders of this Society became, year after year, more successful in attaining its end. Slowly, but steadily, a marked improvement in the treatment of animals was everywhere manifested. Her Most Gracious Majesty the Queen was not slow to honour the Society with her patronage. The nobility, and many of the most distinguished members of both Houses of Parliament, followed her example. In 1840, by command of Her Majesty, the Society was honoured and distinguished as one of the "Royal" Societies. Since that period, its progress has been attended with remarkable success, and its achievements have been universally applauded. At the present time, it is regarded as a permanently established institution, and it has secured for itself the esteem and encouragement of all good and beneficent men of this and of future generations.

We need not dilate upon the merits and good works of this Society. Nearly all the civilized nations of the world have emulated England's example, and, at the present time, they vie with one another in protecting animals by the enactment of good laws, and their beneficence is extended even to brutes *feræ naturæ*. The efforts of the Society are not altogether equal to the task of entirely suppressing all acts of cruelty to animals; nevertheless, by the many pains and penalties to which an offender is subject, these acts are very much diminished both in gravity and number. Moreover, one of the most beneficial influences exercised by this Society consists in educating the minds of rising generations,

and in infusing into the hearts of all rational beings increased sentiments of kindness and benevolence towards the irrational creatures around them. And when, in future ages, the great achievements of this nineteenth century in arts, sciences, and inventions, shall be applauded and extolled, the energetic operations of this society will be duly appreciated and universally praised.

563. **The Best Natural Means of Preventing Cruelty to Animals.**—Amongst the many means, as dictated by right reason, for the prevention of cruelty towards animals, the following may be adopted as the best :—

First.—Children, both at home and at school, should be influenced to exercise acts of kindness to animals. Amusements, in which pain is inflicted on any living creature, should be discouraged. A thoughtful consideration of the treatment due to an animal should be carefully impressed upon the minds of the young ; and those who take delight in tormenting dumb animals should be severely reprimanded, or even punished.

Second.—Servants who, either from ignorance, habit, or carelessness, disregard the comfort of living creatures placed under their charge, should be admonished and reprimanded, and, at the same time, be made to understand how much actual torment their neglect may entail.

Third.—People in humble spheres of life, who allow wretched animals to undergo great fatigue and suffering, should be rebuked. Drovers, butchers, and poulterers, many of whom indulge in habits of cruelty which would disgrace a savage, should be carefully watched and, when guilty of illegal acts, brought to judgment. Draymen, carmen, and horse-keepers in general, who, in various ways, neglect and ill-treat their animals, even working disabled brutes after sunset and in secret places, where no eye of pity can behold them, should be likewise watched and visited with due punishment. And, on the other hand, those who practise kind and humane treatment towards animals should be encouraged and rewarded.

564. Legal Means of Punishment for Cruelty to Animals.—

12 & 13 Vict., c. 92, provides three means by which perpetrators of cruelty to animals may be punished.

I. *By giving the offender into the custody of a policeman or constable.* [Section XIII.]—In flagrant cases this is the best course to adopt where magistrates sit daily, as the person charged can be conveyed to a police court immediately after the commission of the offence, and punished forthwith. If a policeman or constable be not within reach when the cruelty is witnessed, and cannot be obtained soon afterwards, proceedings must be by summons. If the accused be arrested, and the charge be dismissed by the magistrate, the complainant is liable to an action for false arrest; hence, it is important that the evidence be strong when this course is taken, so that a conviction must follow.

In towns and country places where magistrates do not sit more than once or twice a week, it will be better to proceed by summons, except in cases exhibiting the worst features of torture; or when, in consequence of the offender's refusal to discontinue his brutality, it may be necessary to protect the animal by placing its tormentor in custody of a police officer; or when the offender refuses to give his name and address, is a stranger, may abscond, or in all probability cannot be found for the service of summons.

The horse and vehicle in charge of any person given into custody may be conveyed to a place of safe keeping for production at the hearing, and to provide security for the payment of the penalty and expenses to which the accused, or the owner, may become liable; and in default of payment of such penalty and expenses, the magistrate may order the animal and the vehicle to be sold forthwith to discharge the said liability. [Section XIX.]

II. *By Summons.* [Section XIV.]—First obtain the name and address of the offender, and that painted on the vehicle in his charge (if any), and lay the complaint before a justice of the peace within whose jurisdiction the offence shall have been committed. This must be done WITHIN ONE CALENDAR MONTH after the commission of the act complained of.

III. *By Warrant.* [Section XVI.]—This is desirable in all cases where there is reason to believe the offender will evade a summons by absconding.

565. Other Condemnable Kinds of Cruelty to Animals.—We may here denounce as an act of cruelty and barbarity the custom, which is, however, now dying out, of training certain animals for the simple purpose of fighting either among themselves or with men. To witness such fights is, indeed, a gross kind of pleasure, and to train animals for this end is in itself an act of cruelty. But cruelty implies the infliction of unnecessary and unmerited pain. It is, therefore inhuman, and must be denounced as an act of barbarism, justly punishable by the existing laws of the land.

566. Conclusion.—We might lay down many other principles in defence of helpless brutes, but, perhaps, in doing so, we might appear pedantic. Throughout the entire course of this work our sole object has been to show forth all the duties of man, whether as an individual, or as a member of society; and, as we mentioned in the very beginning, the whole of our treatise may be comprehended in these words: *Keep the order established in all things.* It was virtually on the soundness of this great universal principle that we decided to embody in this work the indirect duties of man towards animals. We may possibly not escape the adverse criticism of some philosophers for having had the boldness to admit, as a part of philosophy, what was not so *ab initio*. But, whatever the consequences of our efforts may be, we are conscious of having been the first, in the capacity of philosophers, to praise and reverence, with unbiased feelings, the wisdom of England in sanctioning by Acts of Parliament the indirect duties of man towards animals.

In order that what we have endeavoured to prove may be better understood and more widely practised, we conclude the whole of this treatise by subjoining the most important of the various Acts of Parliament that have been passed for the Prevention of Cruelty to Animals.

ACTS OF PARLIAMENT.

12 & 13 Vict., c. 92.

*This Act was passed August 1, 1849, and is intituled
"An Act for the more effectual Prevention of Cruelty to
Animals."*

Section I. repeals 5 & 6 Wm. IV. c. 59, and 7 Wm. IV., and 1 Vict. c. 66.

Section II.—And be it enacted, That if any person shall cruelly beat, ill-treat, over-drive, abuse, or torture, or cause, or procure to be cruelly beaten, ill-treated, over-driven, abused, or tortured, any animal, every such offender shall for every such offence forfeit and pay a penalty not exceeding *Five Pounds*. (See also sec. xviii.)

Section III.—And be it enacted, That every person who shall keep or use or act in the management of any place for the purpose of fighting or baiting any bull, bear, badger, dog, cock, or other kind of animal, whether of domestic or wild nature, or shall permit or suffer any place to be so used, shall be liable to a penalty not exceeding *Five Pounds* for every day he shall so keep or use or act in the management of any such place, or permit or suffer any place to be used as aforesaid ; provided always, that every person who shall receive money for the admission of any other person to any place kept or used for any of the purposes aforesaid shall be deemed to be the keeper thereof ; and every person who shall in any manner encourage, aid or assist at the fighting or baiting of any bull, bear, badger, dog, cock, or other animal as aforesaid, shall pay a penalty not exceeding *Five Pounds* for every such offence.* (See also sec. xviii.)

Section IV.—And be it enacted, That if any person shall, by cruelly beating, ill-treating, over-driving, abusing, or torturing any animal, do any damage or injury to such animal, or shall thereby cause any damage or injury to be done to any person or to any property, every such offender shall on conviction of such offence pay to the owner of such animal (if the offender

* For cock fighting, proceed for cruelty to the cocks under sec. 2 if place was not kept for the purpose.

shall not be the owner thereof), or to the person who shall sustain damage or injury as aforesaid, such sum of money by way of compensation not exceeding the sum of *Ten Pounds*, as shall be ascertained and determined by the Justice of the Peace by whom such person shall have been convicted: Provided always that the payment of such compensation, or any imprisonment for the non-payment thereof, shall not prevent or in any manner affect the punishment to which such person or the owner of such animal may be liable for or in respect of the beating, ill-treating, or abusing of the said animal: Provided also that nothing herein contained shall prevent any proceeding by action against such offender, or his employer, where the amount of damage or injury is not sought to be recovered under this Act.

Section V.—And be it enacted, That every person who shall impound or confine, or caused to be impounded or confined, in any pound or receptacle of the like nature, any animal, shall provide and supply* during such confinement a sufficient quantity of fit and wholesome food and water to such animal; and every such person who shall refuse or neglect to provide and supply such animal with such food and water as aforesaid shall for every such offence pay a penalty of *Twenty Shillings*. (See also sec. xviii.)

Section VI.—And be it enacted, That in case any animal shall at any time be impounded or confined as aforesaid, and shall continue confined without fit and sufficient food and water for more than twelve successive hours, it shall and may be lawful to and for any person whomsoever from time to time, and as often as shall be necessary, to enter into and upon any pound or other receptacle of the like nature in which any such animal shall be so confined, and to supply such animal with fit and sufficient food and water during so long a time as such animal shall remain confined without being liable to any action of trespass or other proceeding for or by reason of such entry; and the reasonable cost of such food and water shall be paid by the owner of such animal, before such animal is removed, to the person who shall supply the same, and the said cost may be recovered in like manner as herein provided for the recovery of penalties under this Act. (See also 17 & 18 Vict. c. 60, which amends this Section.)

Section VII.—That every person licensed according to the

* The distrainer, not the pinder, is liable.

provisions of 26 Geo. III. c. 71, who shall refuse or neglect to write over his door in legible characters "Licensed for Slaughtering Horses," &c., shall forfeit and pay for such offence a penalty not exceeding *Five Pounds*, and shall pay a like penalty for every day during which such refusal or neglect shall continue. (See also sec. xviii.)

Section VIII.—And be it enacted, That every person keeping or using or acting in the management of any place* for the purpose of slaughtering horses or other cattle (not intended for butchers' meat) shall immediately upon any horse or other cattle being brought to or delivered at such place for the purpose of being slaughtered, cut off or cause to be cut off the hair from the neck of such horse or other cattle, and within three days from the time of such horse or other cattle being brought or delivered as aforesaid, shall kill or cause to be killed the said horse or other cattle, and, until such horse or other cattle shall be killed, shall supply such horse or other cattle with a sufficient quantity of fit and wholesome food and water; and if any person keeping or using or acting in the management of any such place shall neglect or omit to cut or cause to be cut off the hair of the neck of such horse or other cattle, or to kill or cause to be killed any such horse or other cattle within the time above limited, or shall neglect or omit to supply a sufficient quantity of fit and wholesome food and water to such horse or other cattle as aforesaid, every such person shall on conviction of either of the said offences be liable to a penalty not exceeding *Five Pounds*. (See also sec. xviii.)

Section IX.—And be it enacted, That if any person keeping or using or having the management of any place for the purpose of slaughtering horses or other cattle (not intended for butchers' meat) shall use or employ or cause or permit to be used or employed any horse or other cattle brought to or delivered at, or which shall be in or upon such place for the purpose of being slaughtered, or shall permit or suffer any such horse or other cattle to leave the said place to be employed in any manner of work, every such person shall be liable to forfeit and pay a penalty not exceeding *Forty Shillings* for every day on which such horse or other cattle shall be so used or employed, or shall be absent from such

* In *Colam v. Hall* it was decided by Queen's Bench that kennels are "places," when animals are slaughtered there for hounds.

place; and every person who shall be found using or employing any such horse or other cattle, or in the possession of any such horse or other cattle, whilst so used or employed, shall be liable to forfeit and pay a penalty not exceeding *Forty Shillings* for every day he shall use or employ or be so possessed of any such horse or other cattle as aforesaid. (See also sec. xviii.)

Section X.—And be it enacted, That every person keeping or using or having the management of any place for slaughtering horses or other cattle (not intended for butchers' meat), shall at the time of receiving any horse or other cattle in such place, enter in a book such a full and correct description of the colour, marks, and gender of such horse or other cattle as may clearly distinguish and identify the same; and if any such person shall refuse or neglect to make or cause to be made such entry in a clear and distinct manner, or shall refuse or neglect to produce such book before any Justice of the Peace whenever required by such Justice so to do, or shall refuse to allow such book to be inspected, and extracts to be made therefrom at all reasonable times, by any constable, or other person duly authorized by such Justice, every such person shall be liable to forfeit and pay a penalty for every such offence not exceeding *Forty Shillings*. (See also sec. xviii.)

Section XI.—Enacts that persons licensed to slaughter horses shall not be licensed also as horse dealers.

Section XII.—And be it enacted, That if any person shall convey or carry, or cause to be conveyed or carried in or upon any vehicle any animal in such a manner or position as to subject such animal to unnecessary pain or suffering, every such person shall forfeit and pay a penalty not exceeding *Three Pounds* for the first offence, and a penalty of *Five Pounds* for the second and every subsequent offence. (See also sec. xviii.)

Section XIII.—And be it enacted, That when and so often as any of the offences against the provisions of this Act shall happen, it shall and may be lawful for any constable *upon his own view* thereof, or upon the complaint and information of any other person who shall declare his or her name and place of abode to the said constable, to seize and secure by the authority of this Act any such offender, and forthwith *without any other authority or warrant* to convey such offender before a Justice of the Peace, to be dealt with by such Justice according to law.

Section XIV.—And be it enacted, That every complaint under the provisions of this Act shall be made *within one calendar month* after the cause of such complaint shall arise, and every offence committed against this Act may be heard and determined by any Justice of the Peace within whose jurisdiction such offence shall be committed in a summary way upon the *complaint of any person* and *without any information in writing*; and it shall be lawful for any such Justice in all cases where any person complained of shall not be in custody, to summon such person to appear before such Justice or before any other Justice of the Peace at a time and place to be named in such summons; and on the appearance of the party accused, or in default of such appearance upon the proof of the service of such summons, the said Justice or any other Justice who shall be present at the time and place appointed for such appearance, shall proceed to examine into the matter; and if upon the confession of the party accused, or on the oath of one or more credible witness or witnesses, the party accused shall be convicted of having committed the offence charged or complained of, the party so convicted shall pay such penalty, damage, or compensation, as the said Justice shall according to the provisions of this Act adjudge, order, or award, together with the costs of conviction, to be settled by such Justice, or be otherwise dealt with according to the provisions of this Act.

Section XV.—And be it enacted, That any summons issued by any such Justice, requiring the appearance of any party charged as an offender against any of the provisions of this Act, shall be deemed and taken to be well and sufficiently served in case either the summons or a copy thereof shall be served personally on such person as aforesaid, or shall be left at his usual or last known place of abode in whatever county or place such summons may be served or left.

Section XVI.—And be it enacted, That any Justice of the Peace may without issuing any such summons as aforesaid, forthwith issue his warrant for the apprehension of any person charged with any offence against the provisions of this Act, whenever good grounds for so doing shall be stated on oath before such Justice.

Section XVII.—And be it enacted, That any Justice of the Peace may summon any witness to appear and give evidence before him upon the matter of any offence against the provisions of this Act; and if any such witness shall, after tender

of his reasonable expenses in that behalf, neglect or refuse to attend at the time and place stated in such summons, then, proof on oath being first given of the personal service of the summons upon such witness, such Justice may issue his warrant for the apprehension of such witness, and such Justice may commit any witness appearing or being brought before him who shall refuse to give evidence, to the House of Correction or common gaol within the jurisdiction of such Justice, there to remain without bail or mainprise for any time not exceeding twenty-one days, or until such witness shall sooner submit himself to be examined and to give evidence ; and in case of such submission, the order of such Justice shall be a sufficient warrant for the immediate discharge of such witness from custody.

Section XVIII.—And be it enacted, That in every case of a conviction under this Act, where the sum imposed as a penalty, or the amount awarded for compensation or damage together with costs (if any), by any Justice of the Peace, for or in respect of any offence against the provisions of this Act, shall not be paid immediately upon the conviction, or within such time as the convicting Justice shall in the exercise of his discretion, appoint and limit in that behalf, it shall be lawful for such Justice, and he is hereby required, to commit the offender to the House of Correction, there to be imprisoned with or without hard labour, for any time not exceeding two calendar months, unless payment be sooner made : Provided always that if such conviction shall take place before two Justices, or before one of the Police Magistrates, sitting at any Police Court within the Metropolitan Police district, it shall be lawful for such justices or such Police Magistrate, if they or he shall think fit, instead of imposing a pecuniary penalty, forthwith to *commit any such offender* to the House of Correction, there to be imprisoned, *with or without hard labour, for any time not exceeding three calendar months.*

Section XIX.—And be it enacted, That whenever any person having charge of any vehicle or any animal shall be taken into custody by any constable for any offence against the provisions of this Act, it shall be lawful for such constable to take charge of such vehicle or animal, and deposit the same in some place of safe custody as a security for payment of any penalty to which the person having had charge thereof, or the owner thereof, may become liable, and for payment of any expenses which may have been or may be necessarily incurred

for taking charge of and keeping the same; and it shall be lawful for any Justice of the Peace before whom the case shall have been heard to order such vehicle or such animal to be sold for the purpose of satisfying such penalty and reasonable expenses, in default of payment thereof, in like manner as if the same had been subject to be distrained and had been distrained for the payment of such penalty and expenses.

Section XX.—And be it enacted, That in case any person shall at any time or in any manner unlawfully obstruct, hinder, molest, or assault any constable or keeper of a pound while in the exercise of any power or authority under or by virtue of this Act, every such person shall pay a penalty not exceeding *Five Pounds* for every such offence. (See also sec. xviii.)

Section XXI.—Provides for the application of penalties recovered under this Act.

Section XXII.—And be it enacted, That when any complaint shall be made before any Justice of the Peace against the driver or conductor of any vehicle, for any offence committed by him against the provisions of this Act, it shall be lawful for such Justice, if he shall think proper forthwith to summon the proprietor of such vehicle, to produce before him the driver, conductor, or other servant by whom such offence was committed, to answer such complaint; and in case such proprietor or owner, after being duly summoned, shall fail to produce the driver, conductor, or servant, it shall be lawful for the Justice of the Peace, in the absence of the accused, to hear and determine the case in the same manner as if he had been produced, and to adjudge payment by the proprietor or owner, of any penalty or sum of money and costs in which the driver, conductor, or servant shall be convicted: Provided always, that if the said Justices of the Peace shall deem it proper, it shall be lawful for him when such proprietor or owner shall fail to produce his driver, conductor, or servant, without any satisfactory excuse, to be allowed by such Justice, to impose a fine of *forty shillings* upon such proprietor or owner, and so from time to time as often as he shall be summoned in respect of such complaint, until he shall produce the said person. (See also sec. xviii.)

Section XXIII.—Conviction form. (11 & 12 Vict. c. 43, contains a better one.)

Section XXIV.—Enacts that convictions shall be trans-

mitted to the next General or Quarter Sessions, and that a copy of such conviction may be received as evidence of conviction for a former offence.

Section XXV.—Gives offenders a power of appeal in cases where the sum adjudged to be paid on conviction shall exceed two pounds.

Sections XXVI. XXVII. and XXVIII.—Enact that convictions shall not be removed, nor quashed for want of form; also, as to the details in actions arising out of convictions, &c.

Section XXIX.—And be it enacted, That for the purposes of this Act the following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter; that is to say—

The word “animal” shall be taken to mean any horse, mare, gelding, bull, ox, cow, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, dog, cat, or any other domestic animal.*

And words denoting the singular number are to apply to a plurality of persons, animals, or things; and words denoting the masculine gender are to apply to persons and animals of the feminine gender; and the word “over drive” shall also signify over ride.

[In *Everitt v. Davies* the Judges decided that the owner of an animal which has been severely injured, who refuses to kill such animal, and keeps it alive as a patient, commits no offence, provided he preserves it from unnecessary suffering. In *Powell v. Knight* a dog had been severely shot, but not killed. The Judges ruled that cruelty must be interpreted by the nature of the act performed. A man is held to intend the reasonable consequences of his own act. It was clear that appellant had intended to kill this dog, and so shot it with a killing instrument; hence, death instead of torture

* It has been determined by the Judges (*Budge v. Parsons*) that a cock is a domestic animal; and it follows, therefore, that ducks, geese, swans, and similar tame birds are protected by this statute. “Domestic,” it is now generally held, applies to an animal kept in a state of confinement by man, or depending on him for sustenance. See also 17 & 18 Vict., c. 60, sec. 3, which interprets “animal” to mean in both Acts, “Any domestic animal, whether of the kind and species particularly enumerated [in above clause] or of any other kind or species whatever, and whether a quadruped or not.”

was a reasonable consequence of his act, although death did not ensue. Conviction quashed.]

17 & 18 Vict. c. 60.

This Act was passed July 31, 1854, and is intituled "An Act to amend an Act [12 & 13 Vict. c. 92] for the more effectual Prevention of Cruelty to Animals."

Section I.—Provides that every person who has impounded or confined, or hereafter shall impound or confine as in the said Act mentioned, any animal, and has provided and supplied or shall hereafter provide and supply such animal with food and water as therein mentioned, shall and may and he is hereby authorized to recover of and from the owner or owners of such animal not exceeding double the value of the food and water so already or hereafter to be supplied to such animal, in like manner as is by the said last-mentioned Act provided for the recovery of penalties under the same Act; and every person who has supplied or shall hereafter supply such food and water shall be at liberty, if he shall so think fit, instead of proceeding for the recovery of the value thereof as last aforesaid, after the expiration of seven clear days from the time of impounding the same, to sell any such animal openly at any public market (after having given three days public printed notice thereof) for the most money that can be got for the same, and to apply the produce in discharge of the value of such food and water so supplied as aforesaid and the expenses of and attending such sale, rendering the overplus (if any) to the owner of such animal.

Section II.—Enacts that, Whereas by an Act passed in the second and third years of her present Majesty it was enacted, under a penalty, that dogs should not be used for the purposes of draught within the Metropolitan Police District, and it is desirable that such enactment should be extended to all parts of the United Kingdom: Be it enacted, That any person who shall, from and after the first day of *January*, One thousand eight hundred and fifty-five, on any public highway in any part of the United Kingdom, use any dog for the purpose of drawing or helping to draw any cart, carriage, truck, or barrow, shall forfeit and pay a penalty not exceed-

ing Forty Shillings for the first offence, and not exceeding Five Pounds for the second and every subsequent offence.

Section III.—Enacts that the words to which a meaning is affixed by 12 & 13 Vict., c. 92, s. 29, shall have the same meaning in this Act, and the word “animal” shall in the said Act and in this Act mean any domestic animal, whether of the kind or species particularly enumerated in s. 29 of the said Act, or of any other kind or species whatever, and whether a quadruped or not.

2 & 3 Vict. c. 47.

This Act was passed August 17, 1839, and is intituled “An Act for further informing the Police in and near the Metropolis.”

Section XLVII.—Empowers Metropolitan police to enter premises kept or used for baiting or fighting animals, and take all persons into custody.

Section LVI.—Enacts that “every person who within the Metropolitan district shall use any dog for the purpose of drawing or helping to draw any cart, carriage, truck, or barrow,” shall be liable to a penalty of 40s. for the first offence and £5 for the second offence.

41 & 42 Vict. c. 74.

This Act was passed August 16, 1878, and is intituled “An Act for making better provision respecting contagious and infectious diseases of cattle and other animals, and for other purposes.” It commenced to have effect in part on October 1, 1878, and came into full force on January 1, 1879.

Section IV.—Repeals 32 & 33 Vict. c. 70—The Contagious Diseases (Animals) Act, 1869.

Section XXXII.—Empowers the Privy Council to make general or special orders (among others):—

(xxiii.) for insuring for the animals carried by sea a proper supply of food and water, and proper ventilation during the passage and on landing; also (xxiv.) for protecting them from unnecessary suffering during the passage and on landing; also (xxv.) for protecting animals

from unnecessary suffering during inland transit; also (xxvi.) for securing a proper supply of water and food to animals during any detention thereof; also (xxvii.) for prescribing and regulating the marking of animals; also (xxxii.) for applying all or any of the provisions of this Act to horses, asses, and mules, and to glanders and farcy, and other diseases thereof.

In pursuance of this section, the "Transit of Animals' Order (463)" provides regulations for the transit of animals, and a supply of water to them on railways.

Transit by Sea.—Cattle vessels must be divided into pens not exceeding 9-ft. by 15-ft., the floors of which to have proper battens and footholds, and such inclosure to be well ventilated; freshly-shorn sheep may not be carried on the deck during the winter months; and a supply of water must be provided at all places where animals are put on board or landed from vessels, and a supply of food must be provided at places where animals are landed from vessels.

Transit by Railway.—Cattle trucks must be provided with spring buffers and proper footholds; overcrowding to be an offence; and unclothed freshly-shorn sheep must be conveyed in covered and enclosed trucks (well ventilated) to protect them from the weather during winter months; and railway companies must provide water for animals at upwards of 800 railway stations mentioned in the schedule.

Persons Liable.—The owners and masters of vessels, the owners and occupiers of places where animals are put on board or landed, railway companies, and consignors.

Section XXXIII.—Enacts that Railway Companies shall make a provision to the satisfaction of the Privy Council of water and food at stations to be named generally or specifically by the Privy Council; that railway companies shall water and feed animals brought to such stations on request of the consignor or person in charge of the animals; that railway companies may recover from the consignor the value of such refreshment in manner provided; that if the consignor or person in charge of an animal make no request to the railway company to supply water to the said animal, and in consequence such animal remain twenty-four hours without water, then the consignor and the person in charge shall be guilty of an offence against the Act, and it shall lie "on the person charged" to prove such a request and the time within which the animal had a supply of water; also, that the Privy Council may, if they think fit, reduce the said twenty-four hours to any number not less than twelve hours.

26 Geo. III. c. 71.

*This Act was passed in 1785, and is intituled "An Act for regulating houses and other places kept for the purpose of slaughtering horses."**

Section I.—Enacts that no person shall keep or use any house or place for the purpose of slaughtering or killing any horse, mare, gelding, colt, filly, ass, mule, bull, ox, cow, heifer, calf, sheep, hog, goat, or other cattle, which shall not be killed for butchers' meat, without first taking out a licence for that purpose at the General Quarter Sessions. . . . The Quarter Sessions are authorized and empowered to grant such licences as aforesaid upon a certificate under the hands and seals of the minister and churchwardens, or overseers, or of the minister and two or more substantial householders of the parish wherein the person or persons applying for the licence shall dwell, that such person or persons is or are fit and proper to be trusted with the management and carrying on of such business.

Sections II., III., IV., & V.—Provide that the name of the Licensee, &c., shall be placed on the building, that the times of slaughter shall be regularly sent on to an Inspector to be appointed by the Vestry, in order that he may attend and make proper entries in the books.

Section VIII.—Enacts that persons slaughtering horses, or flaying dead horses, in places of this kind without a licence shall be guilty of felony, and on conviction shall be punished by fine and imprisonment, and public or private whipping, or shall be transported beyond the seas for not more than seven years.

7 & 8 Vict. c. 87.

This Act was passed August 9, 1844, and is intituled "An Act to amend the law for regulating places kept for slaughtering horses."

Section I.—Provides that all licences granted, authorizing persons to keep or use any house or place for the purpose of slaughtering or killing any horse or other cattle not killed for

* An offence under this Statute is felony.

butchers' meat pursuant to 26 Geo. III., c. 71, shall be renewed annually.

Section II.—Empowers Justices in Quarter Sessions to cancel such annual licences when the conditions have been violated.

Section III.—Imposes a penalty of Five Pounds on persons guilty of cruelty in knackers' yards.

Section IV.—Empowers constables to enter knackers' yards to inspect.

Section V.—Protects Inspectors of knackers' yards against obstruction in the performance of duty.

Section VI.—Imposes a heavy penalty on Inspectors for neglect of duty.

Section VIII.—Provides that proceedings be taken within three calendar months.

Sections VII. and IX.—Enact procedure under the Act.

Section X.—Interprets "horse" to include "mare, gelding, mule, pony, colt, or filly;" and "cattle" to include "bull, ox, cow, steer, heifer, calf, ass, sheep, lamb, goat, pig, or any other domestic animal."

24 & 25 Vict. c. 97.

This Act was passed August 6, 1861, and is intituled "An Act to consolidate and amend the statute law of England and Ireland relating to malicious injuries to property."

Section XL.—Enacts that whosoever shall unlawfully and maliciously kill, maim, or wound any cattle shall be guilty of felony, and being convicted thereof shall be liable, at the discretion of the Court, to be kept in penal servitude for any term not exceeding fourteen and not less than three years; or to be imprisoned for any term not exceeding two years, with or without hard labour, and with or without solitary confinement.

Section XLI.—Enacts that whosoever shall unlawfully and maliciously kill, maim, or wound any dog, bird, beast, or other animal, not being cattle, but being either the subject of larceny at common law, or being ordinarily kept in a state of confinement, or for any domestic purpose, shall, on conviction thereof before a Justice of the Peace, at the discretion of the Justice, either be committed to the common gaol or house of correction.

there to be imprisoned only, or to be imprisoned and kept to hard labour, for any term not exceeding six months, or else shall forfeit and pay, over and above the amount of injury done, such sum of money not exceeding Twenty Pounds as to the Justice shall seem meet ; and whosoever, having been convicted of any such offence, shall afterwards commit any of the said offences in this section before mentioned, and shall be convicted thereof in like manner, shall be committed to the common gaol or house of correction, there to be kept to hard labour for such term not exceeding twelve months, as the Justice shall think fit.

Section LVIII.—Provides that it is not necessary to prove that accused had conceived malice against the owner of the injured animal.

Section LXXI.—Must proceed for malicious injury* within six months.

39 & 40 Vict. c. 77.

This Act was passed August 15, 1876, and is intituled "An Act to amend the law relating to cruelty to animals."

Section II.—Prohibits painful experiments on animals, except under conditions imposed by the Act, and enacts a penalty of Fifty Pounds for the first offence, and One Hundred Pounds for the second offence.

Section III.—Imposes the following conditions, without observance of which no person may perform experiments on animals calculated to give pain—the operator must be licensed by the Home Secretary ; the object of the experiment must be the discovery of knowledge for prolonging life or alleviating suffering, and not for the attaining of manual skill ; the animal must be wholly insensible during the operation, and must be killed before sensibility returns, if it be probable that pain would be felt should sensibility return ; no experiment shall be performed as an illustration of lectures in medical schools, hospitals, colleges, or elsewhere of a kind likely to cause pain by a teacher who has not applied for and obtained a certificate, and even then he must not cause pain ; painful experiments may be performed by persons who obtain licences from the Home Secretary authorizing them under

* "Malice" means a wrongful act, done intentionally, without just cause or excuse.

conditions he may impose to perform such experiments for discovery or demonstration of alleged discoveries.

Section IV.—Prohibits the use of curare as an anaesthetic.

Section V.—Gives a special protection to dogs, cats, horses, asses, and mules against painful experiments, which may not be used if any other animal be available.

Section VI.—Absolutely prohibits exhibitions of painful experiments to the public, under heavy penalties, and forbids under a smaller penalty the advertising of a projected exhibition.

Sections VII., VIII., IX., X., XI., & XII.—Empower Home Secretary to have places of experimentation registered, to impose conditions on licensees, to demand reports of experiments, and provide inspection; and legalize experiments ordered to be made by a Judge for the elucidation of criminal cases heard by him.

Section XIII.—Empowers Magistrates to grant a search warrant when reasonable ground exists that painful experiments are being performed by unlicensed persons.

Sections XIV., XV., XVI., XVII., XVIII., XIX., & XX. relate to routine of procedure.

Section XXI.—Forbids the prosecution of a licensee without the assent of the Secretary of State.

Section XXII.—Limits the action of the statute to vertebrates.

There is no limitation of time provided during which proceedings must be taken; therefore section XI., of 11 & 12 Vict. c. 43, will apply—viz., information must be laid before the expiration of six months.

[This Act is complex—its provisions can hardly be applied by the police, much less by individuals.]

26 & 27 Vict. c. 113.

This Act was passed July 28, 1863, and is intituled "An Act to prohibit the sale and use of poisoned grain."

Section II.—Enacts that every person who shall offer or expose for sale or sell any grain, seed, or meal which has been so steeped or dipped in poison, or with which any poison or any ingredient or preparation has been so mixed, as thereby to render the same poisonous, and calculated to destroy life, shall in either case for every such offence, upon summary

conviction, as hereinafter provided, forfeit any sum not exceeding Ten Pounds.

Section III.—Enacts that every person who shall knowingly and wilfully sow, cast, set, lay, put, or place, or cause to be sown, cast, set, laid, put, or placed, into, in, or upon any ground or other exposed place or situation, any such grain, seed, or meal which has been so steeped or dipped in poison, or with which poison or any ingredient or preparation has been so mixed as thereby to render such grain, seed, or meal poisonous, and calculated to destroy life, shall, upon a summary conviction thereof as hereinafter provided, forfeit any sum not exceeding Ten Pounds.

Section IV.—Exempts all solutions or material for *bonâ fide* use in agriculture.

Section V.—Provides indemnity to witnesses who have participated in the offence, provided they make known the facts before information has been laid against them.

27 & 28 Vict. c. 115.

This Act was passed July 29, 1864, and is intituled "An Act to prohibit the placing of poisoned flesh and poisonous matters in plantations, fields, and open places, and to extend 'The Poisoned Grain Prohibition Act, 1863.'"

Section II.—Enacts that every person who shall knowingly and wilfully set, lay, put, or place, or cause to be set, laid, put, or placed, in or upon any land any flesh or meat which has been mixed with or steeped in or impregnated with poison or any poisonous ingredient so as to render such flesh or meat poisonous and calculated to destroy life, shall, upon a summary conviction thereof, forfeit any sum not exceeding Ten Pounds, to be recovered in the manner provided by The Poisoned Grain Prohibition Act, 1863: Provided always that nothing herein contained shall prevent owners or occupiers of land in Ireland from laying or causing to be laid any poisonous matter as herein-before described, after a notice has been posted in a conspicuous place, and notice in writing has been given to the nearest constabulary station.

Section III.—Provides that nothing shall make it unlawful for the occupier of any dwelling-house or other building, or the owner of any rick or stack of wheat, barley, oats, beans, peas, tares, seeds, or of any cultivated vegetable produce to

put or place or cause to be put or placed in any such dwelling house or other building, or in any enclosed garden attached to such dwelling-house, or in the drains connected with any such dwelling-house; provided that such drains are so protected with gratings or otherwise as to prevent any dog from entering the same, or within such rick or stack, any poison or poisonous ingredient or preparation for the destruction of rats, mice, or other small vermin.

[“Flesh or meat” must be understood to mean “flesh or other food, not being grain.” Meat may be of vegetable as well as of animal nature—“I have given every green herb for meat.”]

24 & 25 Vict. c. 96.

This Act was passed August 6, 1861, and is intituled “An Act to consolidate and amend the Statute Law of England and Ireland relating to larceny and other similar offences.”

Section X.—Provides that whosoever shall steal any horse, mare, gelding, colt, or filly, or any bull, cow, ox, heifer, or calf, or any ram, ewe, sheep, or lamb, shall be guilty of felony, and be liable to fourteen and not less than three years’ penal servitude, or to two years’ imprisonment with or without hard labour, &c.

Section XI.—Provides against wilfully killing any animal with intent to steal the carcase, skin, or other part of the animal so killed.

Section XII.—Provides against unlawfully and wilfully coursing, hunting, snaring, carrying away, killing, or wounding any deer in unenclosed land.

Section XIII.—Provides against stealing deer on enclosed ground.

Sections XIV., XV., XVI.—Provide against possession of parts of deer killed unlawfully, or setting snares to catch deer, and give powers to keepers.

Section XVII.—Provides against the unlawful, wilful killing, or taking of hares and rabbits on enclosed or unenclosed breeding grounds; also setting of snares thereon.

Section XVIII.—Provides that whosoever shall steal any dog shall, on conviction thereof before two justices of the peace, either be committed to the common gaol or house of correction, there to be imprisoned and kept to hard labour

for any term not exceeding six months, or shall forfeit and pay over and above the value of the said dog such sum of money not exceeding Twenty Pounds, as to the said justices shall seem meet. And whosoever, having been convicted of any such offence, either against this or any former Act of Parliament, shall afterwards steal any dog, shall be guilty of a misdemeanour, and shall be liable to be imprisoned for any term not exceeding eighteen months, with or without hard labour.

Section XIX.—Enacts that whosoever shall unlawfully have in his possession, or on his premises, any stolen dog, or the skin of any stolen dog—*knowing such to have been stolen*—shall, on conviction thereof, be liable to pay a sum of money not exceeding Twenty Pounds; a second offence rendering him guilty of misdemeanour, and liable to be imprisoned eighteen months, with or without hard labour.

Section XX.—Provides against taking money on a pretence of aiding any person to recover a stolen dog.

Sections XXI. & XXII.—Provide against stealing or having in illegal possession animals ordinarily kept in a state of confinement, not being the subject of larceny at common law.

Section XXIII.—Provides that whoever unlawfully and wilfully kills, wounds, or takes any house dove or pigeon, shall be fined not more than Two Pounds and the value of the bird.

Sections XXIV., XXV., & XXVI.—Provide against stealing fish, &c.

43 & 44 Vict. c. 47.

This Act was passed September 7, 1880, and is intituled "An Act for the better protection of occupiers of land against injury to their crops from ground game."

Section I.—Gives the occupier of land, and persons authorized by him, power to kill and take hares and rabbits on the land occupied by him.

Section III.—Provides that existing agreements prohibiting the occupier from killing or taking the said animals shall not remain in force, even if the landlord have conceded to the occupier any compensatory advantages therein.

Section IV.—Provides that the occupier shall not be required to take out a game licence to entitle him to kill and take hares and rabbits on his own land, the same exemption extending to his assistants.

Section VI.—Provides that firearms shall not be used for the purpose of killing hares and rabbits during night time; that spring traps used for the purpose of killing hares [*sic*] and rabbits shall not be used on the open land and only in rabbit holes;* that poison shall not be employed for killing hares and rabbits.

34 & 35 Vict. c. 56.

This Act was passed July 24, 1871, and is intituled "An Act to provide further protection against Dogs."

Section I.—Empowers a police officer or constable to take possession of any dog that he has reason to suppose to be savage or dangerous straying on any highway, and not under the control of any person, and may detain such dog until the owner has claimed the same, and paid all expenses incurred by reason of such detention.

Where the owner of any dog taken possession of by any constable is known, a letter, stating the fact of such dog having been taken possession of, shall be sent by post or otherwise to the owner at his usual or last known place of abode.

When any dog taken in pursuance of this Act has been detained for three clear days where the owner is not known as aforesaid, or for five clear days where he is so known, without the owner claiming the same, and paying all expenses incurred by its detention, the chief officer of police of the district in which such dog was found may cause such dog to be sold or destroyed.

Any moneys arising from the sale of any dogs in pursuance of this section shall be paid to the account of the local rate, and be applied to the purposes to which that rate is applicable.

All dogs detained under this section shall be properly fed and maintained at the expense of the local rate.

Section II.—Provides that courts of summary jurisdiction

* This is a concession to public opinion against the toothed trap. The position of traps when used for hares and rabbits should henceforth be closely watched by officers and by private persons, and reported on promptly and fully to the Society. When set for vermin, reports cannot lead to legal action.

may take cognizance of a complaint that a dog is dangerous, and not kept under proper control; and if it appears to the court having cognizance of such complaint that such dog is dangerous, the court may make an order in a summary way directing the dog to be kept by the owner under proper control or destroyed, and any person failing to comply with such order shall be liable to a penalty not exceeding twenty shillings for every day during which he fails to comply.

Section III.—Provides that a local authority may, if a mad dog or a dog suspected of being mad, is found within their jurisdiction, make, and when made, vary or revoke, an order placing such restrictions as they think expedient on all dogs not being under the control of any person during such period as may be prescribed in such order throughout the whole of their jurisdiction, or such part thereof as may be prescribed in such order. Any person who acts in contravention of any order made in pursuance of this section shall be liable to a penalty not exceeding twenty shillings.

30 & 31 Vict. c. 134.

This Act was passed August 20, 1867, and is intituled "An Act for regulating the traffic in the Metropolis and for other purposes."

Section XVIII.—Empowers the police to take possession of any dog found in any street within the metropolis and not under the control of any person, and may detain such dog until the owner has claimed the same, and paid all expenses incurred by reason of such detention.

The Commissioner of Police, if he see fit, may issue a notice requiring any dog while in the streets and not led by some person to be muzzled in such a manner as will admit of the animal breathing and drinking without obstruction; and the police may take possession of any dog found loose in the streets without such muzzle during the currency of such order, and may detain such dog until the owner has claimed it, has provided a proper muzzle, and has paid all incidental expenses.

Where any dog taken possession of by the police wears a collar with the address of any person inscribed thereon, a letter, stating the fact of such dog having been taken pos-

session of, shall be sent by post to the address inscribed on the collar.

The Commissioner of Police may cause any dog which has remained in the possession of the police for three clear days without the owner claiming the same, and paying all incidental expenses, to be sold or destroyed.

When, upon complaint that any dog has bitten or attempted to bite any person within the metropolis, it appears to the magistrate having cognizance of such complaint that such dog ought to be destroyed, he may direct it to be killed.

[All dogs taken by the Metropolitan Police are conveyed day by day to the Temporary Home for Lost and Starving Dogs, Battersea Park Road, South Lambeth, where prompt application should be made by owners of lost dogs, and where purchasers may find animals suitable to their wants.]

28 & 29 Vict. c. 60.

This Act was passed June 29, 1865, and is intituled "An Act to render owners of dogs in England and Wales liable for injuries to cattle and sheep."

Sections I. and II.—Make owners of dogs (*i.e.*, occupiers of premises where dogs lived) liable for injuries done by such dogs to cattle and sheep, proof of any previous ferocious propensity of the dogs not being required.

39 Vict. c. 13.

This Act was passed June 1, 1876, and is intituled "An Act to prevent the administration of poisonous drugs to horses and other animals."

Section I. Provides that if any person wilfully and unlawfully administers to or causes to be administered to or taken by any horse, cattle, or domestic animal, any poisonous or injurious drug or substance, he shall (unless some reasonable cause or excuse is shown on his behalf) be liable, on summary conviction, to a penalty not exceeding Five Pounds, or, at the discretion of the court, to imprisonment, with or without hard labour, for any term not exceeding one month in the case of a first offence or three months in the case of a second or any subsequent offence.

43 & 44 Vict. c. 35.

This Act was passed September 7, 1880, and is intituled "An Act to amend the laws relating to the protection of Wild Birds."

[This Act repeals 32 & 33 Vict. c. 17, 35 & 36 Vict. c. 78, and 39 & 40 Vict. c. 29, namely, the Sea Birds' Act, the Wild Birds' Act, and the Wild Fowl Act.]*

Section I.—This Act may be cited as the Wild Birds' Protection Act, 1880.

Section II.—The words "wild birds" shall for all the purposes of this Act be deemed to mean all wild birds. The word "sheriff" shall include steward and also sheriff-substitute and steward-substitute.

Section III.—Any person who between the first day of March and the first day of August in any year after the passing of this Act shall knowingly and wilfully shoot or attempt to shoot, or shall use any boat for the purpose of shooting or causing to be shot, any wild bird, or shall use any lime, trap, snare, net, or other instrument for the purpose of taking any wild bird, or shall expose or offer for sale, or shall have in his control or possession after the fifteenth day of March, any wild bird recently killed or taken, shall, on conviction of any such offence before any two Justices of the Peace in England and Wales, or Ireland, or before the sheriff in Scotland, in the case of any wild bird which is included in the schedule hereunto annexed, forfeit and pay for every such bird in respect of which an offence has been committed a sum not exceeding One Pound, and, in the case of any other wild bird, shall for a first offence be reprimanded and discharged on payment of costs, and for every subsequent offence forfeit and pay for every such wild bird in respect of which an offence is committed a sum of money not exceeding Five Shillings, in addition to the costs, unless such person shall prove that the wild bird was either killed or taken, or bought or received during the period in which such wild bird could be legally killed or taken, or from some person residing out of the United Kingdom. This section shall not apply to the owner or occupier of

* In consequence, the decision, *Re Whitehead v. Smithers* (see p. 204) is void.

any land, or to any person authorized by the owner or occupier of any land, killing or taking any wild bird on such land not included in the schedule hereunto annexed.

Section IV.—When any person shall be found offending against this Act, it shall be lawful for any person to require the person so offending to give his Christian name, surname, and place of abode, and in case the person so offending shall, after being so required to give his real name or place of abode, or give an untrue name or place of abode, he shall be liable on being convicted of any such offence to forfeit and pay, in addition to the penalties imposed by section three, such sum of money not exceeding Ten Shillings sterling as to the justices or sheriff shall seem meet.

Section VIII.—Provision is made for the extension or variation of the close time.*

Observe, all birds are protected, but they are divided into two distinct classes, in order that two differing sets of penalties may be applied against offenders. The maximum fine in the higher division amounts to One Pound and costs, the birds being provided with absolute protection during the breeding season; and in the lower division to Five Shillings and costs, with absolute protection, except against the owners and occupiers of land on whose property they are found, who may destroy them.

The birds protected by the higher penalty are as follows:—

American quail, Auk, Avocet, Bee-eater, Bittern, Bonxie, Colin, Cornish chough, Coulerneb, Cuckoo, Curlew, Diver, Dotterell, Dunbird, Dunlin, Eider-duck, Fern-owl, Fulmar, Gaunet, Goatsucker, Godwit, Goldfinch, Grebe, Greenshank, Guillemot, Gull (except Black-backed gull), Hoopoe, King-fisher, Lapwing, Loon, Mallard, Marrot, Merganser, Murre, Night-hawk, Night-jar, Nightingale, Oriole, Owl, Ox-bird, Oyster-catcher, Peewit, Petrel, Phalarope, Plover, Plovers-page, Pochard, Puffin, Purre, Razorbill, Redshank, Reeve or Ruff, Roller, Sanderling, Sandpiper, Scout, Sealark, Seamew, Sea-parrot, Sea-swallow, Shearwater, Shelldrake, Shoveite, Skua, Smew, Snipe, Solan-goose, Spoonbill, Stint, Stone curlew, Stonehatch, Summer-snipe, Tarrock, Teal, Tern, Thick-knee, Tystey, Whaup, Whimbrel, Widgeon, Wild duck, Willock, Woodcock, Woodpecker.

* Before taking proceedings it will be necessary to ascertain if any variation has been made where offence was committed.

44 & 45 Vict. c. 51.

This Act was passed August 22, 1881, and is intituled "An Act to explain the Wild Birds' Protection Act, 1880.

[This Act states that doubts have arisen respecting the construction of the exception contained in sec. 3 of 43 & 44 Vict. c. 35.]

Section I.—The above-recited exception in sec. 3 of the Wild Birds' Protection Act, 1880, shall be repealed, and in lieu thereof the following enactment shall have effect:—

A person shall not be liable to be convicted under sec. 3 of the Wild Birds' Protection Act, 1880, of exposing or offering for sale, or having control or possession of, any wild bird recently killed, if he satisfies the court before whom he is charged either—

- (1.) That the killing of such wild bird, if in a place to which the said Act extends, was lawful at the time when and by the person by whom it was killed; or
- (2.) That the wild bird was killed in some place to which the said Act does not extend, and the fact that the wild bird was imported from some place to which the said Act does not extend, shall, until the contrary is proved, be evidence that the bird was killed in some place to which the said Act does extend.

Section II.—The Schedule to the Wild Birds' Protection Act, 1880, shall be read and construed as if the word "Lark" had been inserted therein.

94

Philos
Ethics
A936

Austin, J.B.

Rights and duties of man.

13308

**University of Toronto
Library**

**DO NOT
REMOVE
THE
CARD
FROM
THIS
POCKET**

Acme Library Card Pocket
LOWE-MARTIN CO. LIMITED

